



An
Bord
Pleanála

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

Inspector's Report ABP-313314-22

Strategic Housing Development

Demolition of an existing dwelling at Berryfield Lane, construction of 650 no. residential units (241 no. houses, 409 no. apartments), creche and associated site works.

Location

Fassaroe and Monastery, Bray, Co. Wicklow

Planning Authority

Wicklow County Council

Applicant

Cosgrave Property Group

Prescribed Bodies

1. Transport Infrastructure Ireland
2. National Transport Authority
3. Kildare County Council National Roads Office
4. Irish Water

5. Inland Fisheries Ireland
6. Department of Housing, Local Government, and Heritage (DAU)

Observer(s)

1. Barry & Tracey MacDevitt
2. Beauparc Utilities
3. Belgard Estates Limited
4. Bray Pigeon Club
5. Claire Doherty & Andrew Lowe
6. Dave Smyth
7. Denis Sherlock
8. Edwin Murphy & Emily Bradbury
9. Evilin De Boer & Ciaran Broughal
10. Gerry McGlinchey
11. Justin Keane
12. Lachlan Cameron
13. Martina Tierney
14. Mr. and Mrs. Somerville Large
15. Sarah O'Dowd
16. Walter Jayawardene

Date of Site Inspection

14th April 2025

Inspector

Stephen Ward

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1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The site is located at Fassaroe, on the western side of Bray and to the northeast of Enniskerry. The gross application site area extends to a stated total of 78.522 hectares, while the 'developable site area' associated with the application is stated to be 11.55 hectares. The lands effectively form the northern portion of a larger 'Action Area' identified in the Bray Municipal District Local Area Plan 2018-2024.
- 2.2. The lands are located to the west of the N11/M11 route (adjoining Bray) and are accessed via a network of existing roads/junctions running off the N11/M11. The majority of the lands are currently in agricultural use. The western extremity connects to a recently constructed residential access road in the Monastery area on the northern environs of Enniskerry. The northern perimeter bounds onto Ballyman Glen (designated SAC and pNHA) and a Greenstar waste facility. The southern end of the site mainly bounds onto undeveloped agricultural land and a quarried area. There are also a number of low-density residential clusters, small-scale commercial businesses, and agricultural buildings adjoining/surrounding the site.
- 2.3. Berryfield Lane road runs through the site in an east-west direction. There are some large plots within the site perimeter that are excluded from the actual site boundaries, including Berryfield Park sports/youth facilities, Bray Clay pigeon Club, and Fassaroe ESB substation. The lands rise to the west from the N11 and also from Ballyman Glen (to the north) and from Cookstown River valley (to the south).
- 2.4. There are 5 historic landfill locations within the site which were previously operated by Wicklow County Council. These sites were previously used for quarrying (sand and gravel) and the landfill operations ceased in the early 1990s, at which time they were covered in topsoil and returned to agricultural use. In accordance with the Waste Management Act 1996, 4 of these sites are classified as Historic Unlicensed Waste Disposal sites which require Certificates of Authorisation from the EPA for

their remediation. Applications were made by Wicklow County Council to the EPA for the remediation of the 4 sites and the Environmental Risk Assessment had regard to the presence and need for remediation of all 5 sites. In November 2019, the EPA issued final Certificates of Authorisation for the remediation of the 4 sites.

3.0 Proposed Strategic Housing Development

3.1. The proposed development is stated to comprise the 'first stage' of 'Phase 1' of the overall 'Action Area'. An 8-year permission is sought for the construction of:

- 650 no. residential units comprising 241 no. houses and 409 no. apartments;
- Road link (2.4km) connecting N11 to Ballyman Road (with westerly connection to Ballyman Road already in place);
- Pedestrian / cycle route including bridge across the N11 to Dargle Road Upper;
- 15.3ha of District Park / Active Open Space;
- 3 No. pocket park areas comprising a total of 0.43ha.;
- Creche (733sq.m approx. with capacity for approx. 138 no. childcare spaces);
- Retail unit / café kiosk (108sq.m.) in district park;
- Neighbourhood Centre Phase 1 comprising 1,035sq.m. retail, 360sq.m. café, 480sq.m community concierge (serving entire Fassaroe community);
- 414sq.m. residential ancillary uses for residents of the neighbourhood centre apartments (residents lounge 256sq.m., residents gym 90sq.m., and residents concierge 68sq.m.);
- Demolition of an existing dwelling at Berryfield Lane;
- Undergrounding and alteration of 2 No. 38kV overhead ESB lines;
- Undergrounding of 110 kV overhead lines and associated works including construction of 2 No. 110 kV Line Cable Interface Mast, associated 110 kV Overhead Line retirements, installation of ducting and underground cable and installation and retirement of electrical equipment and structures within the existing ESB Fassaroe Substation;
- Site development / ground works across the lands;

- Water supply, foul and surface water drainage proposals; and
- Remediation of 5 no. historic landfill sites in line with Certificates of Authorisation issued to Wicklow County Council by the EPA in 2019.

3.2. The application is proposed as part of a larger Action Area Plan for the overall Fassaroe Lands. The Action Area Plan has been prepared by the applicant and is included with the application in an effort to address the requirements of the Bray Municipal District Local Area Plan 2018-2024. The proposed development comprises a number of 'Character areas' mainly based around the apartments, the neighbourhood centre, and the houses.

3.3. The following table sets out some of the key elements of the proposed scheme as stated by the applicant:

Table 1 – Key Figures of the Proposed Development

Site Area	78.522 ha (gross), 11.55 ha (net)		
Gross Floor Area	75,494.30 sqm (72,364.3 sqm residential (96.4%) & 2,716 sqm non-residential (3.6%))		
Residential Units		Apartments	Houses
Total - 650	1-bed	99	
	2-bed	279	
	3-bed	31	50
	4-bed		88
	5-bed		103
	Total	409	241
Density	56.3 uph (Net)		
Dual Aspect	51.3% (Apartment Units)		
Communal Open Space	Neighbourhood Centre	2550sqm	
	Blocks 1 & 2	2600sqm	
	Block 3	950sqm	
	Block 4	490sqm	

Public Open Space	Football Pitch & Amenities (previously provided)	3.1 ha
	Active Open Space	3.8 ha
	District Park	11.5 ha
Car Parking (Neighbourhood Centre & Apartments)	NC - commercial	120
	NC - residential	77
	Blocks 1 & 2	258
	Block 3	135
	Block 4	44
Bicycle Parking	NC - residential	168
	Blocks 1 & 2	606
	Block 3	280
	Block 4	80
Resident Amenities / Facilities	NC lounge penthouse	256 sqm
	Gym (Blocks 1 & 2)	125 sqm
	Concierge (Blocks 1 & 2)	88 sqm
Other non-residential	NC retail	1035 sqm
	NC cafe	360 sqm
	NC community concierge	480 sqm
	Creche	733 sqm
	Café kiosk	108 sqm
Part V	112 units proposed in Block 3	

3.5. In addition to the standard drawings and documentation requirements, the application was accompanied by a range of reports and documentation including:

- Planning Report (Statements of Proposals and Responses to ABP Opinion)
- Statements of Consistency

- Part V Proposals
- Social Infrastructure Audit
- District Park and Active Open Space – Management and Operation Plan
- Retail Impact Assessment
- Bray's New Sustainable Community at Fassaroe
- Proposed Action Area Plan
- Accommodation Schedule
- Housing Quality Assessment
- Architectural Design Statement
- Materials Report
- Daylight Sunlight and Overshadowing Analysis
- Building Life Cycle Report
- CGIs
- Landscape Strategy, Design Rationale, and Outline Specification
- Material, Furniture, Planting Booklet
- Public Lighting Link Road Report
- Public Lighting Residential & Open Space Report
- Car charging strategy
- Energy Statement
- Resource and Waste Management Plan
- Operational Waste Management Plan
- Engineering Planning Report for Roads, Traffic, Transport and Geotechnical
- Mobility Management Plan
- Public Transport Access Strategy
- Quality Audit

- Engineering Planning Report for Drainage, Potable Water Supply & Utilities
- Stormwater Impact Assessment Report
- Historic Landfill Remediation Strategy Report
- Gas Management Strategy
- Environmental Impact Assessment Report
- Natura Impact Assessment
- Flood Risk Assessment.

4.0 Planning History

Application Site

ABP Ref. PL 27.248705 (P.A. Reg. Ref. 16/999): On 22nd November 2017, the Board refused an application (WCC Grant) for a 7-year permission for mixed use development comprising 390 apartments, 268 houses, neighbourhood centre, creche, district park, parking, new road, relocation of powerlines, pedestrian/cycle bridge, and landfill remediation. In summary, the reasons for refusal related to: lack of public transport services; significant adverse impact on the N11/M11; significant negative impact on established retail centres; and uncertainty with regard to the final requirements of the EPA and resolution of the landfill remediation issue could lead to works that would seriously injure the amenities of future residents and could affect the conservation objectives of Ballyman Glen SAC.

ABP Ref. PL 27.201368 (P.A. Reg. Ref. 02/6564): On 9th July 2003, the Board granted permission (WCC Grant) for 20 warehousing units in five single-storey blocks, office accommodation on two floors and associated site works.

ABP Ref. PL 27.120646 (P.A. Reg. Ref. 99/366): On 7th June 2001, the Board refused permission (WCC Grant) for 78.6 hectares of mixed-use business park development. The reasons for refusal can be summarised as: car-dependant nature of the scheme would be contrary to prevailing sustainable land use and transportation policy; would conflict with objectives to preserve this scenic

landscape; coalescence of the built-up areas of Bray and Enniskerry; traffic movements would seriously prejudice the level of service and carrying capacity of the N11/M11; and the safety and free flow of traffic on the National Primary Route.

Other sites

P.A. Reg. Ref 23/667: Part 8 application by Wicklow County Council approved for the development of a strategic Park & Ride facility with 388 car parking spaces and associated bus facilities, located between the application site and the N11/M11.

5.0 Section 5 Pre-Application Consultation

5.1. Pre-Application Consultation ABP-307479-20

- 5.1.1. Section 5 pre-application consultations took place remotely on the 11th of September 2020 and 21st of May 2021. The consultations related to a proposal for 1,161 no. residential units (496 houses and 662 apartments), creche, and associated siteworks. Representatives of the prospective applicant, Wicklow County Council, and An Bord Pleanála were in attendance.
- 5.1.2. Following consideration of the issues raised during the consultation process and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development. In summary, the applicant was advised that the following issues need to be addressed in the documents submitted that could result in them constituting a reasonable basis for an application.
1. Documentation demonstrating how the development is aligned with the Bray Environs Transport Study 2019 (BETS) and the requirements of Section 3.2 First Growth Area – Phase 1(a) Fassaroe, in particular:
 - a) The development threshold of 650 no. residential units.
 - b) Details of the Traffic Management System Framework at junction 6.
 - c) Details of the traffic modelling assessment, including modal split.
 - d) Proposals for the provision and operation of new bus services.

2. Review of the design and layout of Character Area 1 - Neighbourhood Centre.
3. Further detailed section drawings should be provided.
4. Details of measures for the remediation of the former landfill sites.
5. Details of the proposed new pedestrian / cycle bridge over the M11 / N11.

5.1.3. Furthermore, pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant was notified that, in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, specific information should be submitted with any application for permission, which can be summarised as follows:

- 1) A phasing plan for the development proposed.
- 2) Address the requirements of the Bray Municipal District Local Area Plan 2018, and Housing Objective R5 regarding an agreed Action Area Plan.
- 3) Identify all areas proposed to be taken in charge by the local authority.
- 4) A comprehensive landscaping scheme for the entire site.
- 5) A management and operation plan for public open spaces.
- 6) A Quality Audit Report in accordance with Advice Note 4 of DMURS.
- 7) Proposals for the relationship between proposed housing and the Link Road.
- 8) A landscape and visual impact assessment.
- 9) An assessment of the Daylight and Sunlight characteristics and dual aspect.
- 10) A report that specifically addresses the proposed materials and finishes.
- 11) A life cycle report in accordance with the Apartments Guidelines.
- 12) Part V proposals.

5.2. Applicant's Statement of Response to ABP Opinion

5.2.1. The applicant's Planning Report includes statements of 'Proposals' and 'Responses' to the Opinion, as provided for under Article 297(3) of the Planning & Development Regulations 2001 (as amended). The response to the 'issues to be addressed to constitute a reasonable basis for an application' can be summarised as:

- 1) Section 12.3.3 of Chapter 12 (Traffic and Transportation) of the EIAR and section 5.2.4 of the Planning Report set out how the development is aligned with the Bray Environs Transport Study 2019.
 - a) Proposals have been revised to comprise 650 no. residential units.
 - b) Details of the Traffic Management System Framework to be implemented at junction 6 are referenced in sections 12.3.3 and 3.2.2.1 of the EIAR and in Chapter 5 of the Planning Report. The Framework and TII agreement are presented in the Appendices of the Planning report and EIAR.
 - c) Traffic modelling and modal split are set out in Chapter 12 of the EIAR.
 - d) A Public Transport Access Strategy sets out the proposed bus provisions.
- 2) A design statement for the Neighbourhood Centre is specifically provided in the Architectural Design Statement (ADS).
- 3) Topography and ground levels is addressed at section 3.02 of the ADS.
- 4) Detailed proposals for the remediation of the former landfill sites are presented in the Historic Landfill Remediation Strategy Report; the Gas Management Strategy Report; and Section 4.2.20.1 of the Planning Report. Chapters 4 and 8 of the EIAR address potential impacts and mitigation measures regarding air quality and impacts on human beings.
- 5) Details of the proposed new pedestrian / cycle bridge are set out in various drawings and reports submitted with the application.

5.2.2. With regard to the 'specific information' also requested by the Board, the applicant's response generally outlines that the requested information (points 1-12) has been submitted.

6.0 Relevant Planning Policy

6.1. National Policy & Guidance

- 6.1.1. 'Housing For All - a New Housing Plan for Ireland (September 2021)' is the government's housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland's housing system and deliver more homes of all types for

people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price,
- Built to a high standard in the right place,
- Offering a high quality of life.

6.1.2. The National Planning Framework (NPF), First Revision, April 2025 is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. Key elements of the NPF include commitments towards 'compact growth' and 'sustainable mobility'. It contains several relevant policy objectives that articulate the delivery of compact urban growth and sustainable mobility, including:

- NPO 9 aims to deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints and ensure compact and sequential patterns of growth.
- NPO 10 is to deliver Transport Orientated Development (TOD) at scale at suitable locations, served by high capacity public transport and located within or adjacent to the built up footprint of the five cities or a metropolitan town and ensure compact and sequential patterns of growth.
- NPO 17: In each Regional Assembly area, settlements not identified in Policy 4 or 5 of this Framework, may be identified for significant (i.e. 30% or more above 2022 population levels) rates of population growth at regional and local planning stages, provided this is subject to:
 - Agreement (regional assembly, metropolitan area and/or local authority as appropriate);
 - Balance with strategies for other urban and rural areas (regional assembly, metropolitan area and/or local authority as appropriate), which means that the totality of planned population growth has to be in line with the overall growth target; and

- A co-ordinated strategy that ensures alignment with the delivery of investment in infrastructure and the provision of employment, together with supporting amenities and services.
- NPO 37: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.
- NPO 43 is to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale relative to location.
- NPO 45: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration, increased building height and more compact forms of development.
- NPO 47 outlines that 'Housing Need Demand Assessments' (HNDAs) are to be undertaken for each Local Authority Area in order to correlate and accurately align future housing requirements.

6.1.3. The Climate Action Plan 2025 builds upon and should be read in conjunction with the Climate Action Plan 2024. It refines and updates the measures and actions required to deliver carbon budgets and sectoral emissions ceilings and provides a roadmap for taking decisive action to halve Ireland's emissions by 2030 and achieve climate neutrality by no later than 2050. All new dwellings will be designed and constructed to Nearly Zero Energy Building (NZEB) standard by 2025, and Zero Emission Building standard by 2030. In relation to transport, key targets include a 20% reduction in total vehicle kilometres travelled, a 50% reduction in fossil fuel usage, and significant increases to sustainable transport trips and modal share. The Board is required to perform its functions in a manner consistent with the Climate & Low Carbon Development Act.

6.1.4. The National Biodiversity Action Plan 2023-2030 includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss. Section 59B(1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Board to have regard to the objectives and targets of the

NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Board. The impact of development on biodiversity, including species and habitats, can be assessed at a European, National and Local Level and is taken into account in our decision-making having regard to the Habitats and Birds Directives, EIA Directive, Water Framework Directive and Marine Strategy Framework Directive, and other relevant legislation, strategy and policy where applicable. Biodiversity is addressed in sections 12 and 13.7 of this report.

6.1.5. The National Sustainable Mobility Policy (2022) sets out a strategic framework to support Ireland's overall requirement to reduce carbon emissions.

6.1.6. Having considered the nature of the proposal, the receiving environment, and the documentation on file, including the submissions received, I am of the opinion that the directly relevant section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), Department of Housing, Local Government and Heritage (hereafter referred to as the '*Compact Settlement Guidelines*')
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, (December 2020, updated in July 2023) (hereafter referred to as the '*Apartments Guidelines*').
- The Planning System and Flood Risk Management including the associated Technical Appendices, 2009 (the '*Flood Risk Guidelines*').
- Urban Development and Building Heights – Guidelines for Planning Authorities, 2018 (hereafter referred to as the '*Building Height Guidelines*').
- Childcare Facilities – Guidelines for Planning Authorities (June 2001) and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education Scheme (the '*Childcare Guidelines*').
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (July 2023).
- Retail Planning – Guidelines for Planning Authorities, 2012 (hereafter referred to as the '*Retail Planning Guidelines*').

- Spatial Planning and National Roads - Guidelines for Planning Authorities (January 2012) – Department of Environment, Community & Local Government.

6.1.7. Other relevant national Guidelines include:

- Design Manual for Urban Roads and Streets (DMURS) (2019).
- Delivering Homes, Sustaining Communities (2007) and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities.
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.
- Guidance for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, (Department of Housing, Local Government and Heritage) (August 2018).
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009).

6.2. Regional Policy

6.2.1. The primary statutory objective of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031 (RSES) is to support implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework.

6.2.2. Bray is designated as a 'Metropolitan Key Town' within the Dublin Metropolitan Area. The RSES outlines that in order for Bray to fulfill its growth potential, lands at Fassaroe to the west of the N/M11 are targeted for new housing, employment and major community and sports facilities. The relevant aspects of Regional Policy Objectives (RPOs) relating specifically to Bray Key Town can be summarised as:

RPO 4.37: Support the continued development of Bray including co-ordination between WCC and DLRCC, and the transport agencies to facilitate the delivery of key infrastructure required for the westward extension of the town, including Bray-Fassaroe public transport links and road improvements.

RPO 4.40: Support ongoing investment in public transport infrastructure, including the appraisal, planning and design of the LUAS extension to Bray. The development of Bray-Fassaroe should be undertaken in collaboration between WWC, DLRCC, and the transport agencies to ensure the delivery of enabling transportation infrastructure and services.

6.2.3. The Dublin Metropolitan Area Strategic Plan (MASP) promotes compact sustainable housing delivery and integrated transport and land use. It seeks to focus on several large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. Bray is identified as a key node on the north-south DART corridor and the consolidation and westward expansion of Bray to Fassaroe and Old Conna is linked to improved public transport connections. Table 5.2 also includes 'Bray, extension to Fassaroe, Greystones' as part of the North County Wicklow Strategic Employment Location.

6.2.4. Other relevant RPOs can be summarised as:

RPO 4.1: In preparing core strategies for development plans, local authorities shall determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES, within the population projections set out in the National Planning Framework to ensure that towns grow at a sustainable and appropriate level, by setting out a rationale for land proposed to be zoned for residential, employment and mixed-use development across the Region. Core strategies shall also be developed having regard to the infill/brownfield targets set out in the National Planning Framework.

RPO 5.4: Development of strategic residential development areas shall provide for higher densities and qualitative standards set out in national guidance documents.

RPO 5.5: Residential development shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner.

RPO 8.16: Support the improvement and protection of the TEN-T network to strengthen access routes to Ireland's ports, including investment in the ongoing

development of the N11/M11 to improve connectivity to Rosslare and improvements to the Dublin-Wexford rail line.

- 6.2.5. The Greater Dublin Area Transport Strategy 2022-2042 (NTA) sets out a framework aiming to provide a sustainable, accessible, and effective transport system for the area which meets the region's climate change requirements, serves the needs of urban and rural communities, and supports the regional economy.

6.3. Local Planning Policy

6.3.1. Wicklow County Development Plan 2022-2028

The WCDP 2022-2028 was adopted on 12th of September 2022 and came into effect on 23 October 2022.

Core Strategy

Chapter 3 outlines that the population targets and housing requirements of lower-level plans must be consistent with the Core Strategy and that this will be achieved either in subsequent amendments to such plans or in the preparation of new LAPs. It acknowledges that the majority of current LAPs have a surplus of zoned land having regard to the revised 2031 targets set out in the NPF Roadmap and the RSES for the EMRA. Prior to the adoption of new LAPs reflecting the targets set out in the CDP, in the assessment of applications for new housing development (or mixed use development of which housing forms a significant component) the Council will strictly adhere to the compact growth, sequential development and phasing principles set out in the CDP.

Bray is designated a Level 1 Key Town in the Metropolitan Area and population should grow from 29,646 (2016) to a target of 38,565 (2028) with a housing growth target of 4,026 houses between Q3 2022 to Q2 2028. Table A outlines that Bray has a surplus of 40 hectares zoned lands comprising strategic sites outside of the existing built-up area and that this will be addressed in the next LAP.

Relevant Objectives can be summarised as follows:

CPO 4.1 To implement the Core Strategy and Settlement Strategy, having regard to the availability of services and infrastructure and in particular, to direct growth into key towns, self-sustaining growth towns, self-sustaining towns and small towns.

CPO 4.2 To secure compact growth through the delivery of at least 30% of all new homes within the built-up footprint of existing settlements by prioritising development on infill, brownfield and regeneration sites and redeveloping underutilised land in preference to greenfield sites.

CPO 4.5 To ensure that all settlements, as far as is practicable, develop in a self-sufficient manner with population growth occurring in tandem with physical and social infrastructure and economic development. Development should support a compact urban form and the integration of land use and transport.

CPO 4.7 To implement the Core Strategy and Settlement Strategy, to monitor development and the delivery of services on an ongoing basis and to review population targets where service delivery is impeded.

Housing

Chapter 6 builds on the Core Strategy to put in place a framework to guide the delivery of new housing. In addition to standard design requirements, relevant policies/objectives can be summarised as follows:

CPO 6.2 The sale of all developments of residential units, whether houses, duplexes or apartments, to commercial institutional investment bodies shall be prohibited.

CPO 6.8: Support lifetime adaptable homes and require that residential developments (>20 units) provide at least 5% universally designed homes.

CPO 6.13: Require that new residential development achieves the minimum densities as set out in Table 6.1, subject to the protection of character/amenities and compliance with other national guidance.

CPO 6.17: Facilitate higher buildings subject to compliance with the assessment criteria set out in the Building Heights Guidelines.

CPO 6.19: The development of zoned land should generally be phased in accordance with the sequential approach as set out in this chapter. The Council

reserves the right to refuse permission for any development that is not consistent with these principles.

CPO 6.27: Require new multi-unit residential development to provide an appropriate mix of unit types and sizes.

CPO 6.30: The maximum size of any single 'housing estate' shall be 200 units and developments that include more than 200 units should be broken into a number of smaller 'estates' differentiated by design themes.

Social & Community Development

Chapter 7 outlines how the enhancement of community infrastructure and facilities will contribute to CDP Strategy. Relevant policies/objectives can be summarised as:

CPO 7.5 Housing development shall be managed and phased to ensure that infrastructure is adequate or is being provided to match the needs of new residents, including requirements for a Social Infrastructure Audit and Accessibility Report.

CPO 7.29 Where considered necessary, require the provision of childcare facilities in all residential developments comprising 75 houses or more.

CPO 7.33 In all new residential development >50 units, where considered necessary by the Planning Authority, the developer shall provide in the residential public open space area a dedicated children's play area.

CPO 7.40 Sports facilities shall normally be located on zoned active open space, close to towns or villages where they are easily accessed by sustainable options.

CPO 7.42 The development of new sports or active open space zones shall be accompanied by appropriate infrastructure.

CPO 7.46 To require open space to be provided in tandem with new residential development (in accordance with the Development & Design Standards Appendix).

Retail

Chapter 10 outlines that Bray is at 'Level 2 Major Town Centres & County Town Centres' of the Retail Hierarchy & Strategy for County Wicklow. At Fassaroe, the planning authority will facilitate appropriately scaled retail that provides for the immediate needs of residents and employees of the area but does not undermine

the role of Bray town centre. It is envisaged that Fassaroe will provide the function more akin to a Level 4 Neighbourhood Centre.

Lands identified for new neighbourhood centres will generally be identified in local plans which may outline the scale and nature of floorspace to be provided.

Relevant objectives can be summarised as follows:

CPO 10.5 Assess all applications having regard to the 'Retail Planning Guidelines' and Retail Design Manual (DoECLG 2012).

CPO 10.23 Within neighbourhood centres, protect, provide for, and improve the mix of services and facilities which provide for the day-to-day needs of the local community, to a degree that is akin to their role and function. Development which would undermine the role of the town centre will not be permitted.

Sustainable Transportation

Chapter 12 outlines the aim to craft land use policies to produce settlements of such form and layout that facilitates and encourages sustainable forms of movement and transport, prioritising active travel modes of walking and cycling, and for larger settlements, public transport. It outlines that the Bray and Environs Transport Study (April 2019) identifies a range of transportation interventions required to serve the full build-out of the strategic site at Fassaroe.

Relevant policies/objectives can be summarised as follows:

CPO 12.21 To promote a range of transport objectives, including the Luas extension or other mass transit to Bray town centre, Bray train station and Fassaroe.

CPO 12.22 To continue to work with Iarnród Éireann and the NTA on the improvement of mainline train and DART services into Wicklow.

CPO 12.24 To facilitate, through both the zoning of land and the tie-in of new facilities with the development of land with the application of supplementary development contributions, the extension of the Luas or other mass transit to Bray town centre, Bray train station and Fassaroe.

CPO 12.26 To promote improved bus services, including requiring new large-scale employment and residential developments in the designated key towns that are

distant (more than 2km) from train / Luas stations to fund / provide feeder bus services for an initial period of at least 3 years.

CPO 12.35 Outlines objectives for the upgrading of the M/N11.

CPO 12.56 Outlines parking standards to comply with Objective CPO 12.8 and Appendix 1 Table 2.3.

CPO 12.64 To support the development of the Strategic Sites identified in the RSES MASP at Fassaroe and the former Bray golf course and Bray harbour lands and the delivery of the transport infrastructure required for the full build-out for each site having regard to the Bray and Environs Transport Study 2019.

CPO 12.65 To continue to work with DLRCC and transport agencies to facilitate the delivery of key enabling infrastructure required to develop the two strategic sites in Bray, especially for the westward extension of the town to Fassaroe, including Bray-Fassaroe public transport links and road improvements.

Water Services & Flood Risk

Chapters 13 & 14 outline policies and objectives relating to water infrastructure, water quality, and flood risk management. Relevant aspects can be summarised as:

CPO 13.21 Ensure the implementation of Sustainable Urban Drainage Systems (SUDS) in accordance with the Wicklow County Council SuDS Policy.

CPO 14.09 Outlines the requirements for applications in areas at risk of flooding.

Waste & Environmental Emission

Chapter 15 addresses solid and hazardous waste management, emissions to the air, as well as noise and light pollution.

Energy & Information Infrastructure

Chapter 16 focuses primarily on 'energy infrastructure' associated with the production, distribution and use of energy. Relevant objectives include:

CPO 16.22 To suitably manage development within 35m of 110KV/220kV lines.

CPO 16.24 Proposals for the undergrounding of cables should demonstrate that environmental impacts are minimised.

Natural Heritage & Biodiversity

Chapter 17 sets out strategies and objectives with regard to natural heritage, biodiversity, and landscape conservation. The Landscape Category Map places the site mainly within an 'Urban Area' which is deemed suitable for development. The western end of the site adjoins the 'North Eastern Valley / Glencree (4 – AONB)'. At Summerhill House Hotel (to the south) is a View of Special Amenity Value or Special Interest (No. 6) towards Cookstown Valley and Ballyman Glen.

Green Infrastructure

Chapter 18 highlights the importance of Green Infrastructure and its overlap with many other aspects of the CDP.

Development & Design Standards

The relevant sections of Volume 3 (Appendix 1) include the following:

- 1 – The overarching design requirements, including s. 1.4.5 'Contaminated Land'.
- 2.1 – Roads and Transport, including parking standards.
- 2.2 – Water Services, including water supply/demand, wastewater, and stormwater.
- 3 – Mixed Use and Housing Developments, including density, building height, privacy, open space, parking etc.
- 3.2.4 – Greenfield developments and large-scale expansion areas.
- 3.2.7 – Design Quality.
- 3.2.8 – Building Design.
- 6.1 – General development standards for retail.
- 7 – Social & Community Developments, including requirements for social infrastructure audits, childcare facilities, schools and others.
- 8 – Open Space, including quantitative and qualitative standards.

6.3.2. Bray Municipal District Local Area Plan 2018-2024

As will be outlined in section 11.2 of this report, there are substantive questions about the status of this plan. However, for the information of the Board, the main provisions of the LAP (other than those already covered in the CDP) are summarised under the following headings.

Context and Zoning

The application site is part of the larger designated Action Area 1 (Fassaroe). Action Area Plans are to be the subject of comprehensive integrated schemes that allow for sustainable, phased and managed development. Applications for sections of each AAP will not be considered until an overall AAP has been agreed in writing with the Planning Authority, unless it can be shown that any application will not undermine the overall objectives for that Action Area and would contribute its 'pro rata' share of public infrastructure and facilities. The position, location and size of the land use zonings are indicative only and may be altered in light of eventual road/service layouts, design and topography, subject to compliance with criteria for the AAP.

In summary, the AAP and subsequent development shall comply with the objectives:

1. Phasing shall be in the following manner:

Phase 1 - Road link from N11 to Ballyman Road.

Passive Park (minimum of 8ha).

Active Open Space / Sports Zone (minimum of 14 ha).

Site identified and reserved for school campus.

Neighbourhood Centre.

Up to 2,000 residential units.

Phase 2 - Identification and reservation of site for additional primary school.

Remainder of residential units.

2. Provision of an access road from the N11 to Ballyman Road.
3. Provision for a north – south link route with old Conna Avenue.
4. Provision for Luas or other mass transit public transport services.
5. Appropriate transport services in accordance with BETS.
6. The scale of the neighbourhood centre shall be in accordance with the retail floorspace objectives of the County Retail Strategy and shall include a range of retail and commercial services as well as community facilities. The non-residential area shall not be expected to exceed 1ha and residential development will be expected in the order of 75 units. Single storey supermarkets will not be permitted, and retail uses shall be integrated into a larger overall mixed-use development.

7. Lands immediately west of the designated 'neighbourhood centre' shall be reserved for the future development of a multi school campus.
8. The neighbourhood centre zone and major park shall be accessible to all areas by high quality, direct and safe pedestrian and cycle routes.
9. Lands of not less than 22ha shall be laid out and dedicated to parks and active / sports uses (land use zones OS1 and AOS, but not OS2).
10. All development proposals shall take cognisance of the requirement to maintain the rate, quality and general areas where groundwater recharge occurs in order to maintain or enhance the recharge supplying the groundwater-dependent habitats of Ballyman Glen SAC.
11. Private Open Space for houses shall not be subject to CDP standards. Space will be provided as follows:
 - For 1 or 2 bedroom houses a minimum of 50 sqm
 - 3 bedroom houses to have a minimum of 60 sqm
 - 4 bedroom (or more) houses to have a minimum of 75 sqm

A range of zoning objectives apply, which can be summarised as:

- The proposed housing and apartments are in areas zoned 'R-HD' - *'To protect, provide and improve residential amenities in a high density format'*.
- The proposed Neighbourhood Centre is in an area zoned 'NC' - *'To protect, provide for, and improve a mix of neighbourhood centre services and facilities, which provide for the day-to-day needs of the local community'*.
- The proposed creche is within an area zoned 'CE' - *'To provide for civic, community and educational facilities'*.
- The proposed Passive Open Space District Park (including retail/café kiosk) is proposed on land zoned 'OS1', with parts of the proposed landscaping and landfill remediation areas extending into the 'OS2' zone. The objectives are:
 - OS1 – *'To protect and enhance existing and provide for recreational open space'*.
 - OS2 – *'To protect and enhance existing open, undeveloped lands'*.
- The proposed Active Open Space is in an area zoned 'AOS' - *'To protect and enhance existing and provide for new active open space'*.
- An attenuation pond and associated landscaping are partly on lands zoned 'E1 Employment' - *'To provide for the development of enterprise and employment'*.

- The landfill remediation areas are mainly on land zoned OS1 and OS2. However, the two most western areas (3A and 3B as per planning report) are unzoned.
- The proposed link road runs through/along a range of zoning objectives (including R-HD, AOS, OS1, CE and NC) but its western end is unzoned.

Section 2.2.3 Population and Housing:

Table 2.7 outlines housing stock growth targets up to 2025 for Bray (6,426).

The Residential Development Strategy for Bray MD includes:

- To adhere to the objectives of the CDP in regard to population and housing.
- To promote and facilitate the rapid delivery of the maximum number of housing units in the key development areas of Fassaroe and the former Bray golf club.

Section 2.2.4 Economic Development and Employment

For Bray, the key location for new employment development shall be in Fassaroe, where it is the objective to secure the delivery of up to 3,000 new jobs.

Section 2.2.5 Town Centres and Retail

The indicative additional floorspace allocation (net m²) for Fassaroe is stated to be Convenience 2,500m², Comparison 1,000m².

Section 2.2.7 Infrastructure and Services

For road connections, key priorities are to secure a significantly improved or alternative route to Enniskerry, via the new development zone at Fassaroe.

Chapter 3 Residential Development

Table 3.1 outlines the potential for 4,040 residential units in the Fassaroe AAP1.

R2 - New residential development shall be expected to aim for the highest density indicated for the lands. Lands zoned Residential – High Density will be expected to achieve a density of not less than 50 units / hectare.

R5 – Housing lands at Fassaroe (Action Area 1) shall only be developed as part of comprehensive integrated schemes in accordance with the Action Area objectives.

R14 – A full range of unit sizes, including smaller 2 and 3 bedroomed units shall be provided in all new housing developments (i.e. developments exceeding 4 units).

Generally, no more than 50% of the units in any new development shall exceed 3 bedrooms or 120sqm in size.

Chapter 4 Economic Development & Employment

Fassaroe (Action Area 1) is designated as a primary employment area.

E3 - To protect employment zoned land from inappropriate development.

Section 6.1 Open Space and Play Objectives

CD3 All new neighbourhood parks or active open space zones shall include a 'mixed use games area' (MUGA).

Section 8.1.5 Roads Objectives

RO9 To promote and support the development of enhanced or new greenways and require development in the vicinity of same to enhance existing routes and / or provide new links, including 'Fassaroe – Ballyman Glen to Cookstown River'.

6.3.3. Bray and Environs Transport Study (BETS) (2019)

The BETS was prepared by the NTA in conjunction with the TII, WCC and DLRCC. It sets out the preferred approach for the long-term delivery of land use and transport objectives and is intended to inform their implementation, with specific emphasis on the delivery of development at Fassaroe in the short term. It identifies a range of transportation interventions required to serve the full build-out of the strategic site at Fassaroe, along with recommendations for the phased delivery of such infrastructure/services in tandem with different phases of Fassaroe development.

6.4. Dun Laoghaire Rathdown County Development Plan 2022-2028

6.4.1. The applicant's overall ownership (outlined in blue) extends to the north to the WCC boundary with DLRCC. Although the vast majority of the application site (outlined in red) does not extend to the county boundary, there are localised sections that do.

6.4.2. Zoning objectives which apply to the adjoining DLRCC lands include:

GB - To protect and enhance the open nature of lands between urban areas.

G - To protect and improve high amenity areas.

6.4.3. Other objectives relating to the adjoining DLRCC lands include:

SLO 101 - To protect and conserve Ballyman Glen Special Area of Conservation.

SLO 105 - To prepare a Local Area Plan for Old Connaught.

SLO 107 - To co-operate with the National Transport Authority, Transport Infrastructure Ireland and Wicklow County Council in the establishment of a busway and bridge from Fassaroe to Old Connaught over County Brook at Ballyman Glen which facilitates walking and cycling to provide connections between the proposed new development areas of old Connaught and Fassaroe (Wicklow County).

To protect and preserve trees and woodlands.

To preserve views (from Ballyman Road southwards towards the application site).

6.5. Applicant's Statement of Consistency

- 6.5.1. The application includes a 'Statements of Consistency' report which addresses national and regional policy / guidelines, as well as EU legislation. In terms of local planning policy, it addresses the Wicklow County Development Plan 2016-2022, the Bray Municipal District Local Area Plan 2018-2022, and the Bray and Environs Transport Study 2019. It does not address the Wicklow County Development Plan 2022-2028 which was being prepared at the time of the making of the application.
- 6.5.2. The report concludes that the proposal is in compliance with relevant statutory and advisory policy documents. It states that the proposal provides an appropriate development which is in line with the land use zonings on the site and the provisions of the Bray MD LAP and the Wicklow County Development Plan and also delivers on the requirements of the Bray and Environs Transport Study for this initial phase of development. Finally, it states that the proposed development is in compliance with the requirements of various Governmental Guidelines including those issued under Section 28 of the Planning and Development Act, 2000 (as amended).
- 6.5.3. Accordingly, the application does not include a Statement on Material Contravention.

7.0 Observer Submissions

A total of 16 submissions were received from third-parties. The submissions cover many common issues which can be cumulatively summarised under the headings below. Where relevant, the pertinent issues are discussed in more detail in the 'assessment' section of this report.

Principle of the development

- Nothing has changed since the Board's refusal of the previous applications and the Board is requested to have regard to associated reports/submissions.
- The Action Area Plan has not been agreed with WCC in accordance with LAP requirements and directly undermines the achievement of the overall objectives of the AAP, including the lack of appropriate tie ins and the creation of obvious ransom strips. Furthermore, no AAP has been agreed between the applicants and Belgard Estates Ltd. (owners of 65ha at southern end of the AAP).

Inadequate public transport and road network capacity

- Existing and planned infrastructure is inadequate for the development, particularly without the extension of the LUAS, and the development should not be permitted without public transport certainty.
- The Bus Connects programme for Bray is likely to be towards the latter end of the programme for delivery (2030).
- The proposed bus services are inadequate due to the absence of a comprehensive bus priority system on the main road network in Bray; the infrequency of the timetable for the proposed 185a bus route; the limited peak hour scheduling of the Cherrywood bus connection; and impracticality of the proposed primary school bus for younger children.
- The Ballyman Rd and Enniskerry Rd are unsuitable to accommodate the 185A route and the additional construction and operational traffic, including that generated by the new Link Road which will be a 'rat run'.
- Bus priority measures relating to Upper Dargle Road are uncertain; are not contained within BusConnects or the LAP; are not clearly outlined in the BETS; have not been adequately progressed, funded or communicated by WCC; are not supported by local residents; and associated parking and traffic capacity/impacts have not been adequately assessed in this application.
- Increased car use will result in additional congestion on the already over-congested N11 and identified upgrade requirement have not been secured.
- The cumulative impact on local roads and transport infrastructure must be

considered, including other developments in the area.

- The location and design of the exit/entrance of the new road onto Ballyman Rd (via the recently constructed access road serving 12 houses) is inadequate.
- There is inadequate detail about how Berryfield Lane will be managed and integrated into the proposed traffic plan.
- The pedestrian/cycle bridge is inadequate given people's desire to drive.
- The modal share figures are highly unrealistic.

Landscape and Visual Amenity

- The scale of the development would adversely impact on the character of Enniskerry and its surroundings, which include tourist attractions and are within an 'area of outstanding natural beauty'.
- There would be the loss of a greenbelt between Enniskerry and Bray.

Impacts on existing properties

- Countybrook Lawns / Ballyman Road – The proposed new road will have adverse impacts relating to privacy, noise, vibration, pollution, and traffic hazard.
- Greenstar Waste Facility – The submission from Beauparc Utilities Limited raises concerns that the application (including the EIAR) fails to adequately consider the existing facility and operational impacts relating to noise, asbestos and other hazardous materials, odour, and visual / overlooking impacts. It also highlights that there are no other zoned lands for waste processing activity in Co. Wicklow and the need to ensure that there is adequate waste processing capacity.
- Belgard Estates Ltd – Connections to their lands are inadequately designed and detailed and are dependent on subsequent planning applications.
- Bray Clay Pigeon Club – The submission raises concerns about the proposal to construct a Flare / Gas Collection Compound on the club's Skeet Range; its rights to adjoining lands; and ongoing legal proceedings in relation to same. It highlights potentially decimating impacts on their sporting activities, including a changed urban context which will raise noise/safety concerns. The Club has requested an Oral Hearing.

- Berryfield Lane – Potential impacts on views from houses and localised environmental impacts during construction, including traffic control.

Other Issues

- No public consultation on the application and associated transport/traffic routes.
- Potential negative environmental impacts for residents, wildlife, and Ballyman SAC given that the site includes landfill locations.
- Populations of Red Kites have been observed in the area regularly. The Red Kites are currently Red-listed according to Birds of Conservation Concern in Ireland 2020-2026 and is of high conservation value. The Red Kite is classified as 'Near Threatened' on a European scale according to the IUCN Red List.
- The proposed neighbourhood centre location is a departure from the masterplan and should be more centrally and accessibly located.

8.0 Planning Authority Submission

8.1. Overview

- 8.1.1. In compliance with section 8(5)(a) of the 2016 Act, WCC submitted a report of its Chief Executive Officer which was received on the 7th of June 2022. The submission includes a summary of the views of the elected members of WCC and is accompanied by technical reports from relevant departments of WCC.

8.2. Summary of Inter-Departmental Reports

8.2.1. Bray Engineer

- Proposed link road will be an important strategic connection between the N11 and the R117. However, Ballyman Road is seriously substandard, structurally defective, narrow, poorly aligned with no pedestrian or cycle facilities. Proposals for upgrading the final link between the junction of the link road with the Ballyman Road and the R117, north of its junction with the Monastery Road is required.
- All off road cycle tracks shall be revised so as to be give priority to cyclists and constructed in accordance with the National Cycle Manual at road junctions.

- The proposal to separate public footpaths and roadways by dedicated parking bays maintained by a management company will lead to an acceptable (*sic*) level of jurisdiction conflicts over maintenance and defects liability.
- A masterplan for the inclusion of the council's long-term objective for the provision of adequate sporting facilities at Fassaroe to serve the needs of Bray has not been provided.

8.2.2. Roads Section

No objections subject to conditions and agreement of detailed design measures.

8.2.3. Housing and Corporate Estate

The report outlines that final agreement has not been reached and raises issues about design and Part V proposals.

8.2.4. Environment & Water Services (Landfill)

The report outlines the required measures under the Certificates of Authorisation issued by the EPA to address environmental issues related to the former landfills. The measures relate to a landfill gas pumping test; capping of former landfills; gas protection; surface water; and slope stabilisation. The report considers the applicant's proposals for these matters and concludes that the application adequately addresses the issues and has no objection to the application.

8.2.5. Water & Environmental Services (Surface Water)

The report outlines the need for confirmation / clarification in relation to the stormwater discharge rates; the proposed outfall to the County Brook; stormwater line depths; outfall invert levels at Pond 4; use of filter drains in private rear gardens; climate change allowances; petrol interceptor capacity; Phase 2 details; and culverting of watercourses.

8.2.6. Transportation, Water & Emergency Services

The report considers the application in the context of the BETS and the submission from Kildare NRO (KNRO). The main points can be summarised as:

- The road network should be completed prior to the occupation of any dwellings.

- The proposed cycle/pedestrian bridge does not create any new significant constraints. Details should be agreed prior to occupation of units.
- As per s. 3.2 of the BETS, a Framework for a Traffic Management System for N11 Junction 6 to facilitate Phase 1(a) has been agreed between WCC and TIL. WCC will commence a statutory approval process which will allow sufficient time to implement the measures in advance of the occupation of any dwellings. The timelines for implementation are set out in Table 3.1 of the BETS. Any grant should include a condition setting out the financial arrangements for the developer to provide the infrastructure or contribute to its cost.
- A detailed Public Transport Access Strategy has been prepared for Phase 1(a) and the applicant's proposals for the provision of bus services are noted.
- Bus Priority of the Dublin Road-Castle Street is being progressed under BusConnects and a future application for the Bray route corridor is anticipated. WCC also expects to complete new cycle/pedestrian improvements to the Fran O'Toole Bridge by c. Q4 of 2022.
- WCC and DLRCC are progressing the improvement of the N11/M11 route, including a bus priority scheme and a major upgrade scheme (currently suspended). The project is being managed by Kildare NRO and WCC is aware of the KNRO submission. WCC is satisfied there are overarching agreements in place relating to Fassaroe and the M11/N11 contained in the BETS which specifically addresses the requirements to permit the first phase of development.
- Concerns regarding any overlap of boundaries can be dealt with under the provisions of the Bray Transport study, specifically those relating to the Framework for Traffic Management at junction 6, and also the agreement in respect of the proposed pedestrian /cycle bridge.

Notwithstanding the KNRO concerns, the report concludes that all matters have been adequately considered and can be addressed through appropriate conditions. It states that the applicant has comprehensively addressed the requirements of the BETS and that those matters that are the responsibility of WCC are progressing in accordance with the BETS.

8.3. Summary of Views of the Elected Members

It is stated that the application was discussed at a Municipal District Council Meeting on 10th May 2022. The main views outlined in the CE Report can be summarised as:

Traffic/Road Infrastructure

- Inadequate transport links which have not been improved.
- Inadequate infrastructure on Ballyman Road.
- Ministerial indications that the N11 will not be improved/upgraded.

Social / Community Infrastructure

- Inadequate school and childcare capacity.
- Inadequate sports facilities to cater for the entire Bray area.
- Inadequate community facilities and employment opportunities.

Part V / Affordable Housing

- Part V units should not be concentrated in one block and should not be of lower size or design quality standard.
- Queries about whether the Part V units in Block 3 will have access to the gym beneath Blocks 1 and 2.
- Part V units should have a mix of apartments and houses.
- Provision of affordable housing would be welcome.

Action Area Plan / Local Area Plan

- Need to confirm that the overall vision for the Action Area will be achieved.
- Concerns about piecemeal development of the Action Area.
- Non-compliance with the Local Area Plan.

Other Issues

- SHD process has not worked, and its end is welcomed.
- Concerns that units will be purchased by investor funds and a condition should be attached to prevent this in accordance with the Draft CDP.

- The need for integrated, phased development, including the provision of the cycle/pedestrian bridge, schools, parkland etc.
- Impacts on existing residents need to be considered.
- Historic elements need to be protected.
- Impacts on the Fire Service.
- The lack of development land left in Bray.

8.4. **CE Planning Assessment**

The CE Report is based on the WCDP 2016-2022, the Bray MD LAP 2018, and the submissions received. The main aspects of the CE Report assessment can be summarised under the following headings:

Core Strategy

- The quantum of residential units would come within the growth target up to 2028.
- The Fassaroe lands are key to achieving growth targets for Bray and the proposal for 650 units would accord with the Core Strategy.

Zoning

- The proposed layout/uses would be in accordance with the Bray MD LAP 2018.
- The proposed kiosk in zone OS1 is minor and does not undermine the objective.
- Landscaping works associated with the landfill areas would support the overarching objectives for the area and are acceptable.

Action Area Plan

- Whilst no AAP has been approved, the proposed AAP would be acceptable in principle in accordance with the LAP.
- Development would proceed within an appropriate framework.

Density

- The overall net density of 56.3 uph would accord with Objective R2 of the LAP.

Phasing

- The proposed phasing would accord with the AAP requirements of the LAP.

- Development should include the phase 1 requirements of the BETS.

Design Quality & Residential Standards

- The overall design approach is acceptable and will not negatively impact on views, character, or the identity of Enniskerry.
- The unit mix is considered acceptable. Whilst 1- and 2-bed apartments are included, allowance should also be made for own-door units.
- Active and passive open space is of an appropriate quantity and design.
- Private open space for houses and apartments is of adequate quantity / design.
- Communal open space for the apartments should be dedicated to resident use and designed/landscaped to provide adequate privacy and amenity.
- Future residents would have suitable levels of daylight/sunlight.

Neighbourhood Centre and Retail

- The location and mix of uses in the NC would accord with the AAP and LAP.
- The scale of retail is commensurate with the needs of residents and would not undermine the role of Bray.
- The kiosk is appropriately designed as a park/café facility.
- The overall design of the NC is acceptable, although additional articulation at ground level on the northern elevation would be preferable.

Traffic & Transport

- The use of existing roads for traffic, including buses, would not be significant or have negative impacts on existing residences along such routes.
- Reiterates the Transportation, Water & Emergency Services report.
- The proposed road link would accord with the AAP and Objective R04 of the LAP. Traffic movements generated by the development would mainly use the N11/M11 and impacts on the Ballyman/Enniskerry roads would not be excessive.

Social Infrastructure

- The development can be appropriately served by existing educational facilities, and land has been reserved within the AAP for future school requirements.

- The location and size of the creche is appropriate to meet needs.

Other Issues

- The lands are indicated to be within the applicant's control and any permission would not in itself allow works to go ahead.
- Any permission should require Part V agreement.
- The lands are within Flood Zone C and the development is appropriate.
- Landfill remediation has been authorised by the EPA, which has concluded that the works will not adversely affect the integrity and conservation status of any of the qualifying interests of the Ballyman Glen SAC.

Conclusion

The development would be acceptable as it would:

- be consistent with the zoning objectives for the area and with the provisions of the Action Area Plan as set out in the LAP.
- subject to compliance with the Phase 1 criteria of the Bray Environs Transport Study be acceptable in terms of traffic safety and provide appropriate linkages.
- provide a suitable layout in terms of residential amenity and visual impact.
- ensure the provision of suitable social/recreational infrastructure.

Any grant of permission should be subject to conditions including: no occupation of units until agreed completion of transportation improvements; restriction on first occupation of any residential units to individual purchasers or those eligible for social/affordable housing; final design of the cycle/pedestrian bridge to be agreed.

9.0 Prescribed Bodies

- 9.1. In accordance with the requirements of the Board's pre-application opinion, the application outlines that the following were notified: National Transport Authority; Transport Infrastructure Ireland; Dun Laoghaire-Rathdown County Council; Minister for Housing, Local Government & Heritage; Environmental Protection Agency; Heritage Council; An Taisce; Fáilte Ireland; Inland Fisheries Ireland; Commission for Energy Regulation; Irish Water; and Wicklow Childcare Committee.

9.2. The submissions received can be summarised as follows:

Department of Housing, Local Government and Heritage

Archaeology - concerns are raised that a comprehensive field-based impact assessment has not been included in the EIAR. It concurs with the desk-based findings and recommendations that geophysical survey and archaeological testing (licensed under the National Monuments Acts 1930-2014) be carried out, preferably in advance of any planning decision, and certainly well in advance of any site preparation and/or construction works. There is high potential for archaeological features to survive within the site confines.

Nature Conservation – Concerns are raised regarding potential impacts on Ballyman Glen SAC as a result of changes to the hydrological regime related to the height of the water table, recharge, water flows, and proposals for soakaway and SUDS capacity/management/maintenance.

In relation to Ecological Impact Assessment, it is stated that: the determination as to whether the wet woodland habitat within Ballyman Glen SAC has affinities to Annex I priority habitat Alluvial Forests should be made using the Irish Vegetation Classification System; an area near Landfill Site 2 should be surveyed for Sand Martin and required mitigation be put in place; and consideration should be given to inclusion of bat bricks in the apartment buildings close to Ballyman Glen SAC.

Inland Fisheries Ireland

The report highlights the watercourses and associated habitats/species, and proposals for storm water discharge to same. Surface water run-off, particularly during construction, has potential to damage watercourses through increased run-off and sediment loading, or through the remediation of historic landfill sites, which could impact the County Brook and Dargle systems. It is recommended that the development adheres to relevant standards and guidance to protect watercourses.

Irish Water

Water supply – The Ballyman High Level Reservoir and trunk mains project will provide the necessary upgrade and capacity, subject to network extension funded by the applicant as part of any connection agreement.

Wastewater – Currently a connection is feasible without upgrades.

A Statement of Design Acceptance has been issued by Irish Water.

Any grant should include conditions regarding standard connection agreements and protection of Irish Water assets.

Kildare National Roads Office (KNRO)

The submission highlights two major TII schemes on the N11/M11, i.e., the Junction 4 to 14 Improvement Scheme and the Bus Priority Interim Scheme. It is accompanied by a report which outlines potential impacts which render the proposed development premature. In summary, the identified impacts are:

- The cycle/pedestrian bridge proposals do not have sufficient detail.
- The Traffic Management Framework measures for Junction 6 do not have sufficient detail and there is a possibility that the junction may be closed or modified, resulting in the need to alter the Framework's solutions.
- Land acquisition and boundaries for the schemes are yet to be determined.

National Transport Authority

- In principle, the development of c. 650 units may proceed on the basis of agreements made between the NTA, TII, WCC, and the arising out of the BETS.
- A strategic bus-based Park and Ride facility is planned at Fassaore. Future phases will need to take this into account.
- Cycling proposals are generally welcomed, including the proposed N11 bridge. Any grant should require the agreement of detailed design matters.
- It is not clear how traffic will be managed on Berryfield Lane, and it would benefit from interventions including the provision of footpaths and modal filters.
- Filtered permeability should be incorporated through the conversion of junctions 5, 10, and 11 to pedestrian/cycle access only.
- There are concerns about proposals to provide maximum permitted car-parking.
- The overall approach towards public transport provision is acceptable subject to precise arrangements for routing, service pattern changes, frequency, and funding to be agreed between WCC, the NTA, and the applicant.

Transport Infrastructure Ireland

- The proposed development is in accordance with the BETS and the Traffic Management Framework Agreement. All agreement measures should be completed prior to the occupation of units, the costs for the measures shall be borne by the applicant or WCC, and implementation shall be agreed with the TII.
- Any permission should include requirement regarding the cycle/pedestrian bridge to: comply with TII design standards and procedures; be taken in charge by WCC; and co-ordinate and agree construction with the TII.
- Consultation is recommended with WCC and the N11/M11 Junction 4 to 14 Improvement Scheme project team in advance of any decision to ensure that the scheme design is not compromised.

10.0 Oral Hearing Request

- 10.1. The Board received a request for an Oral Hearing from Bray Clay Pigeon Club. I have considered the basis for the request and the grounds raised, which mainly relate to legal/ownership issues. Having regard to the nature of the site and the surrounding area, together with the nature and scale of the proposed development and the more substantive issues outlined in my assessment (sections 11-14 of this report), I consider that there is adequate information on the file for the purposes of determining this case. I do not consider that an oral hearing would be warranted and, therefore, I recommend that an oral hearing should not be held for the reasons outlined above.
- 10.2. In addition to the request received, I am conscious of the over-riding need for natural justice and fairness for all parties. Therefore, the question of an oral hearing in respect of any other matter will be addressed as/if it arises in sections 11-14 of this report.

11.0 Assessment

11.1. Introduction

11.1.1. Having examined the application details and all other documentation on file, including the C.E. Report from the Planning Authority and all the submissions received in relation to the application, and having inspected the site and had regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this application are as follows:

- Procedural & Principle Issues
- Community/Neighbourhood Facilities & Public Open Space
- Residential Standards
- Impacts on Existing Properties
- Traffic & Transport
- Building Height, Density, Design, & Visual Amenity
- Material Contravention
- The Local Authority Recommendation
- Appropriate Assessment (See Section 12)
- Environmental Impact Assessment (See Section 13)
- Water Framework Directive (See Section 14).

11.2. Procedural and Principle Issues

Status of Bray Municipal District Local Area Plan (LAP) 2018

11.2.1. At the outset I propose to address the fundamental question regarding the status of this LAP. The LAP was adopted on 14th of May 2018 and became effective on 10th of June 2018. Under s. 18 (4)(a) of the Act of 2000, a local area plan '*shall indicate the period for which the plan is to remain in force*'. In this regard, I would highlight the following excerpts of the LAP:

- Section 1.1 states that '*This plan shall have a duration of 6 years,...*'.

- Section 2.2.3 states that *‘While this plan will have a duration of 6 years initially, the provisions of the Planning Act allow in certain circumstances for the duration of local area plans to be extended to 10 years.’*

- 11.2.2. As outlined above, I acknowledge that s. 19 of the Act of 2000 provides a mechanism to extend the period for which an LAP is to remain in force. However, that mechanism involves a formal process including the preparation of a CE Report, the passing of a resolution by the planning authority, and public notification that any such resolution has been passed. This process has not been followed to ‘extend’ the Bray MD LAP 2018. Furthermore, the preparation of a new LAP for Bray MD is currently only at pre-draft stage.
- 11.2.3. I also acknowledge that the lifetime of LAPs can sometimes be extended through their incorporation as part of the CDP. Having reviewed the Wicklow CDP 2022-2028 (as varied), I do not consider that it contains an explicit provision to incorporate or extend the Bray MD LAP 2018, nor does it include any other zoning maps for the Bray area.
- 11.2.4. However, it would appear that the CDP (made in 2022) considers plans such as the Wicklow Town-Rathnew Development Plan 2013 – 2019 and the Blessington Local Area Plan 2013-2019 to be still ‘current’. Section 3.5 states that the remainder of settlements (i.e. excluding the 13 settlement plans in the CDP but including settlements such as Wicklow Town-Rathnew and Blessington) have *‘their own stand-alone ‘Local Area Plans’, which will be reviewed after the adoption of this County Development Plan’*. Section 3.5 also refers to the Core Strategy Tables and a surplus of zoned lands in *‘current LAPs’* (including Wicklow-Rathnew and Blessington). Therefore, it may have been the intent of the Council that the zoning provisions of such plans remain until such time as the LAP is reviewed, and that this was also intended to apply to the Bray MD LAP 2018 (which was ‘current’ when the CDP was made in 2022 but would have been due to expire in 2024).

Zoning and the definition of Strategic Housing Development

- 11.2.5. The status of the LAP and associated zoning objectives in this case has significant implications for the status of the application given the definition of Strategic Housing Development. In this regard, aside from development involving student accommodation and/or shared accommodation, section 3 of the Planning and

Development (Housing) and Residential Tenancies Act 2016 defines ‘strategic housing development’ as ‘*the development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses*’.

11.2.6. Therefore, while the application site was zoned for residential and other uses under the Bray MD LAP 2018 at the time of making the application, it is not clear that the development continues to come within the legislative definition of ‘strategic housing development’ in terms of being on land zoned for ‘*residential use or for a mixture of residential and other uses*’. As per Section 3.5 of the CDP, I acknowledge that WCC intended to make a new LAP for Bray Municipal District and other settlements in the period 2022-2024. However, this has not been achieved in the case of Bray. And while it may have been the intent of the planning authority that the land use zoning under the LAP remained in place until such time as the LAP was reviewed, there is clear ambiguity about the zoning status of the lands.

11.2.7. The questions around the LAP status, zoning, and the definition of Strategic Housing Development constitute a substantive procedural issue. Therefore, should the Board be minded to grant permission, I would recommend that a limited agenda Oral Hearing be held to ventilate these matters further. However, I am not recommending this course of action as I have other substantive concerns regarding the principle of the development and other issues outlined throughout my assessment.

The principle of the development

11.2.8. I acknowledge that the Regional Spatial and Economic Strategy (RSES) and the Dublin MASP outline support for the principle of development at Fassaroe for residential and other uses. In particular, RPOs 4.37 and 4.40 support investment in key transportation infrastructure and services to facilitate such development. Similarly, the CDP Settlement Strategy (s. 4.2) acknowledges that in order for Bray to fulfil its growth potential, lands at Fassaroe are targeted for new housing and other uses subject to *inter alia* the delivery of transport infrastructure in accordance with the BETS, which is supported by CPOs 12.21, 12.24, 12.26, 12.35, 12.64, & 12.65.

11.2.9. Notwithstanding the foregoing support and the potential intent of the Council that the land use zoning remained in place until such time as the LAP was reviewed, the CDP acknowledges that the Bray MD LAP 2018 has a significant surplus of zoned housing land. Core Strategy Table A outlines that the surplus of land outside the

existing built-up area amounts to 40 hectares. It states that this comprises 'strategic sites' and that the surplus will be addressed in the next LAP. In this regard I note that the overall Fassaroe lands formed a majority element of such 'strategic sites' in the 2018 LAP, including c. 79 hectares zoned for 'new residential' development to accommodate c. 4,000 residential units.

11.2.10. The issue of surplus zoning is addressed in section 3.5 of the CDP. It states that:

*"The Core Strategy Tables to follow shows the housing unit requirements for the LAP towns, up to the year 2031 and the housing unit capacity of lands zoned in current LAPs. This table shows that the majority of current LAPs have a surplus of zoned land having regard to the revised 2031 targets set out in the NPF Roadmap and the RSES for the EMRA. Prior to the adoption of new LAPs reflecting the targets set out in this plan, in the assessment of applications for new housing development (or mixed use development of which housing forms a significant component) the Council will strictly adhere to the **compact growth, sequential development and phasing principles** set out in this plan."* (My emphasis).

11.2.11. Accordingly, given that the application is being considered prior to the adoption of a new LAP reflecting the housing targets set out in the CDP, I consider that the principle of the development should be assessed based on the principles of compact growth, sequential development and phasing, as outlined above.

11.2.12. Section 3.5 of the CDP outlines the principle of 'Compact Growth' in accordance with the National Planning Framework. For larger towns in Levels 1-5 (i.e. Bray), where more significant growth is targeted that is unlikely to be possible to accommodate wholly within the existing built up envelope, a minimum of 30% of the targeted housing growth shall be directed into the built up area of the settlement. In cognisance that the potential of town centre regeneration / infill / brownfield sites is difficult to predict, it is stated that there shall be no quantitative restriction inferred from the Core Strategy and associated tables on the number of units that may be delivered on town centre regeneration / infill / brownfield sites. In order to ensure however that overall housing and population targets are not exceeded to any significant degree, the amount of land zoned for housing development outside of the built up envelope of any existing settlement shall not exceed 70% of the total housing target for that settlement.

- 11.2.13. Table 3.5 of the CDP Core Strategy outlines housing targets for Bray during the CDP period (2022-2028) amounting to 4,026 units. Table A of the Core Strategy outlines that there is capacity for 2,000 units within the existing built-up area, which would leave a residual target for 2,026 units outside the built-up area up to 2028.
- 11.2.14. The current proposal for 650 units would account for a significant portion (c. 31%) of the 2,025-unit target. Furthermore, consistent with the requirements of the Bray MD LAP 2018 (including Objective R5) and the applicant's approach in this case (i.e. the proposed AAP submitted with the application), the application must be considered in the context of the overall Action Area 1 (Fassaroe). Table 3.1 of the LAP outlines that the 'R-HD New Residential' land at Fassaroe (78.78 ha) has the potential to accommodate 3,945 units. Consistent with this, the Action Area Plan proposed by the applicant involves 'up to 2000 units' in Phase 1 and '2000 units +' in Phase 2. Clearly, the suggested capacity of c. 4,000 units at Fassaroe alone would grossly exceed the CDP Core Strategy target of 2,026 units for the entire area outside the 'built-up area' of Bray, and a substantially reduced quantum / area for the Action Area is appropriate as per the Core Strategy.
- 11.2.15. The current application for 650 units has been designed in the context of the overall Action Area Plan for c. 4,000 units on the overall lands. Consequently, I would highlight the following:
- It includes a Link Road designed to serve the entire Action Area and an envisaged 4,000 units. This requires reconsideration in the context of a significantly reduced Action Area.
 - The District Park and Active Open Space has been sized, designed, and located to serve the overall Action Area. This requires reconsideration in the context of a significantly reduced Action Area.
 - The design, scale, and location of supporting non-residential uses such as the proposed creche and neighbourhood centre, as well as the future school lands, is based on the overall Action Area and its residential capacity of 4,000 units. This requires reconsideration in the context of a significantly reduced Action Area.
 - The applicant's Public Transport Access Strategy is based on the wider demands associated with the applicant's overall landholding capacity (i.e. c. 2,300 units to be provided in 4 Phases), including proposed new bus routes along the proposed

new Link Road running through the entire Action Area. This requires reconsideration in the context of a significantly reduced Action Area.

- The EIAR and NIS submitted with the application consider the cumulative / in-combination impacts associated with the overall Action Area. This requires reconsideration in the context of a significantly reduced Action Area.

11.2.16. Having regard to the foregoing, I consider that the application must be considered in the context of the overall Action Area at Fassaroe. In that regard, it has been designed as the first phase of an overall Action Area Plan which significantly exceeds the CDP Core Strategy target for housing units outside the 'built-up area' of Bray. Therefore, the proposed development would facilitate an excessive extent of development outside the 'built-up area' of Bray and would be contrary to the principle of compact growth.

11.2.17. In relation to the principles of sequential development and phasing, I would highlight the following provisions of the CDP:

- Section 6.3.2 confirms that the priority for new residential development shall be in the designated town / village / neighbourhood centres, in the 'primary zone' or in the historic centre of large and small villages, through densification of the existing built up area, re-use of derelict or brownfield sites, infill and backland development. It also outlines that, where necessary, the zoning / designation of greenfield land for new housing shall adhere to a range of principles including the 'sequential approach' whereby zoning extends outwards from centres, contiguous to the existing built up part of the settlement.
- Section 6.3.4 reinforces the above by outlining:
 - Development shall extend outwards from the centre of settlements with undeveloped land closest to the centre and public transport routes being given preference, i.e. 'leapfrogging' to peripheral areas shall be resisted;
 - A strong emphasis shall be placed on encouraging infill opportunities and better use of under-utilised land;
 - Areas to be developed shall be contiguous to existing developed areas;

- Only in exceptional circumstances should the above principles be contravened, for example, where a barrier to development is involved. Any exceptions must be clearly justified by local circumstances and such justification must be set out in any planning application proposal.
- CPO 6.19 - The development of zoned land should generally be phased in accordance with the sequential approach as set out in this chapter. The Council reserves the right to refuse permission for any development that is not consistent with these principles.

11.2.18. Having regard to the above, I consider that the application site is a peripheral site located at a significant distance from Bray town centre. There is a significant extent of undeveloped land between the site and the town centre which would be 'sequentially' preferable, and the application site is not contiguous to existing development of significant scale. Furthermore, the site is largely separated from the existing built-up area by the N/M11 road which forms a significant barrier. Accordingly, I do not consider the proposed development would be consistent with the principles of sequential development and phasing as outlined above.

11.2.19. In addition to the above, I note that section 3.5 of the CDP outlines 'Zoning Principles' including 'Principle 4: Sequential approach'. This outlines that the priority locations for new residential development will be:

Priority 1 - In the designated 'town' and 'village' / 'neighbourhood centres' or 'primary zone' through densification of the existing built up area, re-use of derelict or brownfield sites, infill and backland development. In doing so, cognisance will be taken of respecting the existing built fabric and residential amenities enjoyed by existing residents, and maintaining existing parks and other open areas within settlements.

Priority 2 - Strategic Sites as identified by the RSES and associated MASP.

Priority 3 - Infill within the existing built envelope of the town, as defined by the CSO Town boundary.

Priority 4 - Where a need for 'greenfield' residential development is identified, the 'two-tier approach' to land zoning as set out in the NPF will be taken.

- 11.2.20. The application is part of a 'strategic site' at Fassaroe identified by the RSES and associated MASP, which would be 'Priority 2' as per the above. However, I consider that this approach is not consistent with the other sequential approach principles set out in the CDP as it would prioritise the development of peripheral lands ahead of infill development within the existing built envelope of the town (i.e. Priority 3). Therefore, there is some ambiguity in the sequential approach principles contained within the CDP.
- 11.2.21. In conclusion regarding the principles of compact growth, sequential development and phasing, I would highlight that the capacity of the Fassaroe Action Area (c. 4,000 units) would grossly exceed the Core Strategy provisions of the CDP (i.e. 2,026 units for the entire area outside the 'built-up area' of Bray). Based on the CDP Core Strategy, the size and residential capacity of the Action Area would need to be substantially reduced, and this will have significant implications for the application site and the appropriate nature and extent development at this location. Having regard to section 11.2.15 above, it is clear that the proposed development has been designed and assessed based on the applicant's proposed Fassaroe Action Area Plan. And while, in principle, this approach is consistent with the recommended 'masterplan' approach of the LAP, it is clear for the reasons previously outlined that the Action Area is of excessive scale/capacity. Accordingly, I consider that a grant of permission in this case would support an excessive scale/quantum of development within the Action Area, would encourage an excessive quantum of development outside the built-up area of Bray, and would not be consistent with the principles of compact growth, sequential development and phasing as outlined in the CDP. These are the governing principles for the assessment of such applications prior to the adoption of new LAPs reflecting the housing targets set out in the CDP.
- 11.2.22. Furthermore, I consider that the proposed development would be contrary to CDP objectives including: CPO 4.1 which is to implement the County Wicklow Core Strategy and Settlement Strategy; CPO 4.2 which is to secure compact growth through the delivery of at least 30% of all new homes within the built-up footprint of existing settlements by prioritising development on infill, brownfield and regeneration sites and redeveloping underutilised land in preference to greenfield sites; and CPO 6.19 which outlines that the development of zoned land should generally be phased in accordance with the sequential approach.

- 11.2.23. Therefore, having regard to the foregoing, I consider that the principle of the development is unacceptable, would be contrary to the proper planning and sustainable development of the area, and that permission should be refused for this reason.
- 11.2.24. I acknowledge that the issues of principle have arisen as a result of the making of the CDP 2022-2028, which was after the making of the application. However, having regard to the fundamental and substantive nature of concern about the principle of development, as well as the nature of other issues outlined in later sections of my assessment, I do not consider that a resolution could be provided through further information. Accordingly, I do not consider that an Oral Hearing would be warranted under s.18(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).
- 11.2.25. I also acknowledge that population and housing targets will be reviewed following the revision to the National Planning Framework (April 2025). However, the implementation of this revision will require reviews of the current RSES and CDP. In advance of these reviews, the Board is required to have regard to the Core Strategy as outlined in the current CDP 2022-2028.

Other Issues

- 11.2.26. Third-party submissions have highlighted the planning history of the lands and previous refusals of permission. It has been submitted that circumstances have not changed, particularly in relation to transport infrastructure. While I have acknowledged the planning history in section 4 of this report, I confirm that the current application will be considered *de novo* on its own merits.
- 11.2.27. Concerns have also been raised about the lack of agreement of an Action Area Plan for Fassaroe with WCC and other landowners in accordance with the requirements of the LAP. I have previously outlined the lack of clarity on the status of the LAP and any associated provisions relating to the Action Area Plan, and I consider that there is also a lack of clarity in relation to how any such Action Area Plan would be '*agreed in writing with the Planning Authority*' without the involvement of all relevant stakeholders. However, given my previous comments about the excessive scale/capacity of the Action Area relative to CDP Core Strategy housing targets and

my substantive concerns about the principle of the development, I do not propose to examine this matter further.

- 11.2.28. Regarding concerns about the lack of public consultation on the application and its associated transport/traffic routes, I am satisfied that public consultation was facilitated in accordance with statutory requirements and timeframes and that third parties have had the opportunity to make submissions on the application.
- 11.2.29. I note that the WCC elected members have raised concerns about the SHD process. Notwithstanding my previous comments regarding the definition of SHD and zoned land requirements, the principle of the SHD process is a legislative issue which need not concern the Board for the purpose of this decision.
- 11.2.30. The CE Report recommends a condition restricting first occupation of all residential units to individual purchasers or those eligible for social/affordable housing. The development has not been proposed as 'Build to Rent' and there is no other indication that units would be sold to institutional investors. I acknowledge that the national Guidelines on the 'Regulation of Commercial Institutional Investment in Housing' are intended to ensure that own-door housing units and duplex units are not bulk-purchased for market rental purposes, and that the Board must have regard to these Section 28 Guidelines. However, while the Guidelines do not include recommendations for such restrictions on apartments units, I do not consider that it is specifically prohibited. And having regard to the established policy basis for same as per CPO 6.2 of the WCDP, I consider that any grant of permission could include a condition in accordance with the WCC recommendation.

11.3. Community/Neighbourhood Facilities & Public Open Space

Community/Neighbourhood Facilities

- 11.3.1. Regarding concerns raised by WCC elected members about the availability of community facilities including education/childcare, sports, and employment, I note that CPO 7.5 of the WCDP outlines that housing development shall be managed and phased to ensure that infrastructure is adequate or is being provided to match the needs of new residents. This includes a requirement to prepare a Social Infrastructure Audit (SIA) for residential proposals such as this.

- 11.3.2. The application is accompanied by an SIA which assesses the availability of education, childcare, medical, recreation, and other services and facilities, and is based on a 3km catchment zone including the built-up areas of Bray, Enniskerry, and Kilmacanogue. The applicant's SIA also highlights the nature and extent of social infrastructure provisions within the proposed development.
- 11.3.3. In relation to childcare requirements, the SIA estimates that the development would generate demand for only 73 spaces based on demand arising only from 3-bed+ units (272 no.) at a rate of 20 spaces for every 75 units. In this regard, I note that the Apartments Guidelines outline that 1-bed units should not be considered to contribute to demand and that this may also apply, in part or whole, to units with 2 or more bedrooms. However, even in a worst-case scenario where all 2+ bed units (551 no.) are considered, the equivalent requirement of c. 146 spaces would only marginally exceed the 138 spaces proposed. Accordingly, I am satisfied that childcare proposals are consistent with the requirements of local and national policy for a development of this size and nature.
- 11.3.4. In relation to school requirements, the SIA estimates that the development would generate 192 primary school places and 105 secondary school places. However, it outlines Department of Education minimum sizes for primary schools of 16 classrooms (c. 373 pupils) and secondary schools (800-1000 pupils). It concludes that the proposed development would not generate a requirement for new schools, and that land has been reserved for any such future requirement in the AAP.
- 11.3.5. With regard to employment opportunities, I note that Bray is a designated Metropolitan Area Key Town as per the CDP, which is described *inter alia* as a large economically active service centre that provides employment for the surrounding area. It is also designated as a 'strategic employment location' in the RSES.
- 11.3.6. The application also proposes other commercial uses, mainly in the form of the Neighbourhood Centre containing retail (1035m²) and café (360m²). It is accompanied by a Retail Impact Assessment (RIA) which outlines that the population which will result from the development, combined with the existing local population in the immediate vicinity, will likely be sufficient to support the quantum of retail provision proposed without diverting expenditure from other areas or having adverse impacts on existing services within Bray or Enniskerry.

Public Open Space

- 11.3.7. Appendix 1 of the WCDP outlines that public open space will normally be required at a rate of 15% of the site area, with areas that are not suitable for development or for recreational use being excluded. This is consistent with Policy and Objective 5.1 of the Compact Settlements Guidelines.
- 11.3.8. The provision of public open space in the current application is not based on normal CDP requirements. It considers the stated requirements of the Bray MD LAP 2018 and proposes a total of 15.3 ha (3.8 ha active space and 11.5 ha passive district park) in addition to a previously provided 3.1 ha active space (Enniskerry AFC). Accordingly, the application concludes that sufficient public space is provided to meet the phased requirements of the LAP on a 'pro rata' basis.
- 11.3.9. Having regard to my earlier comments about the status of the LAP and the excessive scale/capacity of the Fassaroe Action Area, I consider that the stated open space requirements of the Bray MD LAP 2018 require reconsideration to a rate that is commensurate with the residential capacity as set out in the CDP Core Strategy.

Conclusion

- 11.3.10. Having regard to the need for significant review of the quantum of residential development at this location as outlined in section 11.2 of this report, I consider that the nature and extent of community/neighbourhood facilities and public open space also requires review to a rate that is commensurate with the residential capacity as set out in the CDP Core Strategy.

11.4. Residential Standards

Apartment Standards

- 11.4.1. The WCDP outlines that apartment developments shall comply with the standards of the Apartments Guidelines (2018 and 2020 versions are referenced). In this regard the application is accompanied by an Architectural Design Report, an Accommodation Schedule, a Housing Quality Assessment, and a Statement of Consistency report, which outline that the proposed apartments comply with the 2020 Apartments Guidelines in respect of unit mix, floor areas, dual aspect ratios, ceiling heights, apartments per stair/lift core, internal storage, private amenity space, and communal open space and amenities.

Housing Standards

11.4.2. The WCDP outlines that house sizes/dimensions shall comply with 'Quality Housing for Sustainable Communities' (2007). Again, the house sizes/dimensions are outlined in the Housing Quality Assessment and the Architectural Design Report confirms that all houses have been designed to meet the requirements of 'Quality Housing for sustainable communities'.

11.4.3. In terms of private amenity space for houses, the WCDP 2022-2028 states that houses (1-2 bed) shall generally be provided with 50m² and 3+ beds with 60-75m². In this case all the proposed houses are 3+ bedroom and the HQA confirms that all garden sizes equal or exceed 60m² of 3-beds and 75m² for 4-beds+. This would also comply with the Compact Settlement Guidelines (SPPR 2) which outlines lower minimum requirements (3-bed 40 sq.m, 4-bed + 50 sq.m).

Separation Distances

11.4.4. Section 3.1.3 of the WCDP also outlines that a separation of 22m will normally be required above ground level between opposing windows serving private living areas, but that this shall be applied flexibly given that the careful positioning and detailed design of opposing windows can prevent invasion of privacy. Section 3.2.7 also outlines that traditional back-to-back rows of houses exactly 22m apart should be avoided and more imaginative layouts and building forms provided, subject always to adequate privacy being provided.

11.4.5. I note that the separation distance between blocks 1, 2, 3, and 4 exceeds 22m in all cases. There would appear to be a marginal shortfall in the 22m distance in the neighbourhood centre blocks but I consider that this would be acceptable in accordance with the CDP flexibility. Where back-to-back rows of housing are proposed I note that the 22m distance is achieved and the Architectural Design Statement confirms that 22m separation has been achieved between first floor opposing windows for the houses and only reduced where one unit doesn't have any habitable room windows at first floor level.

11.4.6. In addition to the above, the Board will note that the Apartments Guidelines and Compact settlement Guidelines do not apply the 22m standard. The Compact Settlement Guidelines outline that separation distances should be determined based on considerations of privacy and amenity. SPPR 1 outlines that a separation

distance of 16 metres shall be maintained, although shorter distances can also be accepted subject to suitable design and privacy measures.

Daylight and Sunlight

- 11.4.7. Section 3.2.7 of the WCDP states that layouts shall ensure adequate sunlight and daylight, in accordance with “Site layout planning for daylight and sunlight: a guide to best practice”, (BRE 1991). In terms of national policy/guidance, the Compact Settlement Guidelines outline that a detailed technical assessment in relation to daylight performance is not necessary in all cases, including low-rise housing with good separation from existing and proposed buildings. Where necessary, it states that regard should be had to quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context. In drawing conclusions in relation to daylight performance, planning authorities must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban residential development. Poor performance may arise due to design constraints associated with the site or location and there is a need to balance that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.
- 11.4.8. The application is accompanied by a Daylight, Sunlight and Overshadowing Analysis report based on the BRE Guide (2nd edition 2011) and BS 8206 Part 2. The results of the analysis of the proposed units can be summarised as follows:
- For the houses, all bedrooms, living rooms, and kitchens achieve the recommended Average Daylight Factor (ADF) of 1%, 1.5%, and 2% respectively.
 - For the apartments, 93.5% of bedrooms achieve the recommended ADF (1%) and 82.5% of kitchen/living/dining spaces achieve the recommended ADF (2%). Alternatively, 89% of kitchen/living/dining spaces achieve an ADF of 1.5%.

- All houses and apartments (excluding block 2) with openings in living spaces facing within 90° of due south receive at least 25% of annual probable sunlight hours and at least 5% of annual probable sunlight hours during winter months in accordance with BRE Guidelines. A minority of units within Block 2 would not meet these standards due to the recessed nature of the openings.
- All private/communal spaces achieve 2+ hours of sunlight on the 21st March across >50% of the area, therefore complying with the BRE Guidelines.
- In response to any shortfalls in standards, compensatory measures are highlighted in respect of favourable aspects; generous separation distances; views of mountains, sea, and the proposed open space; private amenity space; and generous communal amenity spaces.

Part V

11.4.9. I note that the WCC CE Report outlines concerns about the nature and design of Part V units, their concentration wholly within Block 3, and whether Part V tenants would have access to communal amenities within the other apartment blocks. I would concur with the concerns of WCC about the concentration of Part V units in one block, although WCC also acknowledges that an approved housing body may support such an approach. This matter could be resolved through a condition requiring agreement in the event of a grant of permission.

Conclusion on Residential Standards

11.4.10. As outlined in the foregoing, I have acknowledged how the application outlines that the proposed development complies with relevant policies and standards for residential development. With the exception of the Part V proposals, neither the planning authority nor other third-party submissions have raised any significant concerns about the proposed residential standards. And having regard to the more substantive concerns regarding the principle of development already outlined in my assessment, I do not propose to examine these matters in further detail.

11.5. Impacts on Existing Properties

11.5.1. The existing residential properties in the area would be protected by generous separation distances from any of the proposed buildings. Accordingly, I do not

consider that that there would be significant adverse impacts on residential amenity by reason of overlooking or overbearing visual impacts.

- 11.5.2. The Daylight, Sunlight and Overshadowing Analysis report also considers the impact of the development on surrounding properties. The overshadowing imagery demonstrates that there is no significant additional overshadowing of adjacent properties, and that minor overshadowing is limited to short time periods. And having regard to the significant separation distances proposed I am satisfied that any daylight impacts would be similarly limited.

Ballyman Road properties

- 11.5.3. Significant concerns have been raised by residents of Countybrook Lawns / Ballyman Road (to the west of the site) about the proposed new road and associated amenity impacts relating to privacy, noise, vibration, and pollution. It should be noted that the western end of the link road connecting with Ballyman Road (closest to these properties) has already been constructed over a distance of c. 275 metres. Therefore, the proposed section of the road is not in close proximity to these properties and concerns effectively relate to the intensification of the existing access road. However, I do not consider that the intensification of the road would result in unacceptable impacts for the residential amenity of properties in the area.

Berryfield Lane properties

- 11.5.4. Residents of Berryfield Lane have also raised concerns about impacts on views from their properties and environmental impacts during the construction stage, including traffic. However, the proposed buildings would be significantly distanced from the existing Berryfield Lane properties to avoid significant visual impacts, and I do not consider that the residents would be entitled to the protection of private views in any case. I am also satisfied that construction stage impacts could be satisfactorily addressed through a management plan in the event of a grant of permission.

Greenstar Waste

- 11.5.5. A submission on behalf of the Greenstar Waste facility (to the north of Blocks 1-3) contends that the application fails to consider operational impacts relating to noise, hazardous materials, odour, and visual / overlooking impacts, and highlights the need to protect such facilities and ensure adequate waste processing capacity.

11.5.6. I would accept the need to ensure an appropriate interface between the waste facility and the proposed residential units. In this regard, I note that the proposed Blocks 1-3 are distanced at least c. 35 metres from any operational areas of the facility and are separated by significant level differences and existing/proposed vegetative screening. The combined effect is that the northern aspect from the proposed apartments would look over the waste facility to ensure an acceptable outlook.

11.5.7. The control of other impacts associated with the waste facility (i.e. noise, odour, hazardous materials, etc.) is effectively a matter for the operators and the relevant regulatory authorities. However, I do not consider that there would be an absolute incompatibility that should prejudice the concurrent operation of the existing waste facility and the proposed residential development.

Adjoining land to the south

11.5.8. The submission from Belgard Estates Ltd. outlines that it has a significant land interest in c. 65 hectares immediately south of Berryfield Lane within the Fassaroe Action Area identified in the Bray MD LAP 2018. It contends that the application does not comply with LAP requirements for integrated development of the Action Area and that the proposed layout does not provide appropriate connections to facilitate the future development of these adjoining lands to the south.

11.5.9. I have previously outlined the lack of clarity on the status of the LAP and concerns about the excessive scale/capacity of the Action Area relative to CDP Core Strategy housing targets. Having regard to these substantive concerns about the principle of the development, I do not propose to examine the development potential of other adjoining lands in further detail.

Bray Clay Pigeon Club

11.5.10. The submission on behalf of the club raises concerns about the proposal to construct a Flare / Gas Collection Compound on the club's Skeet Range; club rights to adjoining lands; and ongoing legal proceedings in relation to same. It also highlights potential decimating impacts on the sporting activities, including a changed urban context which will raise noise/safety concerns.

11.5.11. In relation to the legal / ownership issues, I am satisfied that the applicant has provided sufficient evidence of legal interest for the purposes of the planning

application and decision. As outlined in Section 5.13 of the Development Management Guidelines for Planning Authorities (DoEHLG, 2007), the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land. These are matters to be resolved between the relevant parties, having regard to the provisions of s.34(13) of the Planning and Development Act 2000 (as amended), which outlines that a person shall not be entitled solely by reason of a grant of permission to carry out any development.

- 11.5.12. In relation to club activity and perceived conflicts with the proposed development, I note that no houses are currently proposed within c. 300 metres of the Skeet Range. The submission contends that other shooting stations would adjoin Character Area 4, although it mainly highlights potential concerns for prospective residents. Having regard to the more substantive concerns of principle outlined in my assessment, I do not propose to examine these matters in further detail.

11.6. Traffic & Transport

Public Transport

- 11.6.1. Third-party submissions outline common concerns that the capacity and frequency of existing public transport services are inadequate; that there is uncertainty about future improvements in the form of BusConnects, the LUAS extension, and bus priority measures; and that the applicant's proposals for public transport services and facilities are inadequate.
- 11.6.2. The application is accompanied by a Public Transport Access Strategy (PTAS) which aims to address the requirements of the Bray Environs Transport Study (BETS) (2019) to facilitate the full build out of the Fassaroe lands. It considers the requirements associated with the proposed development on the basis that it comprises 57% of the residential units to be provide on the applicant's overall landholding. In summary, the PTAS includes:
- Provision of a new bus service from Enniskerry via Fassaroe to Bray, Bray DART, and Bray Interchange (No. 185A) throughout the day;
 - Provision of a new bus service from Fassaroe to the Luas at Bride's Glen / Cherrywood (Luas XP) operating for 4 hours in the AM and 3 hours in the PM;

- The above PSO bus services would increase in frequency in line with demand;
- The provision of a dedicated primary school bus service from Fassaroe;
- Efficient and improved bus infrastructure including bus priority along the proposed routes; and
- Ongoing Monitoring, Evaluation and Awareness to ensure the Strategy continues to meet demand.

11.6.3. It is proposed that the optimal solution would be for all scheduled bus services to operate PSO contracts under the management of the National Transport Authority. However, the commitment remains from the applicant to provide a private bus service option, if necessary, as an interim solution. The School Bus Services would be provided and operated by the developer, similar in nature to the School Transport Scheme operated by Bus Éireann on behalf of the Department of Education. It is proposed that in the AM peak of Year 8 of the development the 185A service would run at frequencies of 10 mins; the Luas XP service every 20 mins; and the school service every 30 mins. The PTAS also outlines that a journey time of 20 mins to Bray / DART / Interchange could be achieved through the retention of the priority arrangements at Junction 6 of the M/N11 and through planned bus priority measures on Upper Dargle Road; Castle Street; Bray Bridge; Main Street; and Bray DART Station Transport Interchange upgrade scheme.

11.6.4. I note that the NTA submission supports the principle of the development on the basis of agreements made between the NTA, TII, and WCC arising out of the BETS.

Road Network

11.6.5. Linked to the concerns about inadequate public transport, third-party submissions contend that the application underestimates the extent of car trips associated with the development. Concerns are outlined that the additional car and bus traffic cannot be suitably accommodated on the surrounding road network, including the Ballyman / Enniskerry Roads and the N/M11, and that there is a lack of clarity regarding the integration and management of Berryfield Lane.

11.6.6. Chapter 12 of the applicant's EIA outlines a Traffic Impact Assessment (TIA) of the development. It includes a Vissim microsimulation traffic model extending from M50 Junction 17 (M50/M11 interchange) southwards to N11 Junction 8 (N11/R755

interchange, Kilmacanogue) and considers 13 scenarios extending from the 'base year', 'Base + 4 Design Year', and 'Base + 9 Design Year'. A number of other major development areas were included in the scenarios, including the wider Fassaroe lands, Woodbrook, Shanganagh, and Bray Golf Club. It is informed by traffic surveys carried out in 2019 and background traffic growth factors were considered in accordance with TII Guidelines.

- 11.6.7. The TRICS database was utilised to determine the trip generation for the proposed units. The modal share was determined based on 2016 Census data for similar areas and planned improvements to services and infrastructure have also been considered. Trip distribution and departure profiles are based on the socio-economic profile and the vast majority of trips are predicted to be to/from the N/M11.
- 11.6.8. The TIA outlines that the impact of the proposed development on the N11/M11 mainline results in only marginal increases in average journey times in the AM peak (northbound) and PM peak (southbound). In the +9 year scenario the average journey times also only increase marginally in both the Phase 1 development of 650 units and future phases of up to 1,200 units. The analysis indicates that the impact is therefore considered to be negligible.
- 11.6.9. Regarding Junction 6 on the N/M11, the PM Peak results indicate that the signals at the roundabouts have a very significant to profound impact on the operation of the roundabout, whereas the ramp metering option would have an imperceptible impact. In the AM Peak, the signals at the roundabouts would have moderate to significant impact whereas the ramp metering option would again be imperceptible. Based on the results, measures are recommended which form the basis of the Traffic Management Measures Framework Agreement agreed with key stakeholders TII, NTA and WCC, including CCTV and Camera Counters; Queue Detection and Traffic Monitoring Units; Appropriate Traffic Signals; Assessment of Potential for Additional Storage on Diverge Lanes; and Appropriate Safety Standards.
- 11.6.10. The applicant's assessment of the local road network mainly focuses on impacts on Ballyman Road. However, it outlines that the predicted traffic increases would not exceed 5%, which would not require further assessment in accordance with the thresholds set out in TII Transport Assessment Guidelines.

11.6.11. The submissions from WCC (CE Report) and TII were satisfied that the impacts on the road network were acceptable in accordance with BETS and the Traffic Management Framework Agreement. However, I note that concerns about the capacity of the local road network (Ballyman Road) were raised by the WCC Bray MD Engineer, and that the Kildare NRDO had concerns about impacts on two major TII schemes on the N11/M11.

Pedestrian / Cycle Connections

11.6.12. The proposed development will provide a comprehensive interconnected network of internal pedestrian and cyclist facilities. In addition, external connections are proposed to Bray via a new pedestrian cycle bridge over the N11 to connect with other WCC cycle projects.

11.6.13. The submissions from WCC, the NTA and TII are generally satisfied with the proposals for pedestrian/cycle connections. However, I note that third-party submissions have questioned the effectiveness of the proposed pedestrian/cycle bridge and the Kildare NRDO submission contends that there is not enough detail to determine precise impacts on TII schemes for the N/M11.

Car Parking

11.6.14. It is proposed that all houses (241 units) will be provided with 2 spaces, either in curtilage or in adjacent bays. For apartment blocks 1 & 2 (202 units) a total of 258 spaces are proposed at a rate of 1.27 per unit. For block 3 (112 units) a total of 135 spaces are proposed at a rate of 1.2 per unit, and for block 4 (32 units) 44 spaces are proposed at a rate of 1.37 per unit. And for the neighbourhood centre, 77 residential spaces are proposed to serve 63 apartments (1.2 spaces per unit). Therefore, a total of 996 spaces are proposed to serve the 650 residential units, resulting in an overall ratio of c. 1.5 spaces per unit.

11.6.15. The Compact Settlement Guidelines (SPPR 3) outlines car parking standards for different area categories based on location and accessibility. It is difficult to classify the application site given that its accessibility and transport services are dependent on upgrades through the proposed development (new bus services, pedestrian/cycle improvements etc.) and other external projects such as Busconnects, bus priority schemes, pedestrian/cycle improvements etc. However, I conclude that the proposal

for 1.5 spaces per dwelling would not exceed the maximum standard allowable for accessible, intermediate, or peripheral locations as per SPPR 3.

11.6.16. The WCDP (CPO 12.56) refers to the car parking standards in Appendix 1 Table 2.3. In areas where public transport and parking enforcement are available, the standards shall be taken as maximum standards, and such a quantum of car parking will only be permitted where it can be justified. In locations where public transport and parking enforcement are not available, the standards shall be taken as minimum standard. Deviations from Table 2.3 may be considered in multi-functional developments (e.g. hotels, district centres), where the developer provides a robust model of car parking usage to show that dual usage will occur and that peak car parking demand at any time of the day / week will always be met or other situations that may be considered on a case-by-case basis.

11.6.17. Given that 'public transport and parking enforcement' is not available at this location, I consider that the WCDP standards should be applied as 'minimum'. An assessment of the proposed parking arrangements in the table below shows that proposals are consistent with Table 2.3 of the WCDP.

Table 2: Compliance with WCDP Car Parking Standards

Use	WCDP Standard		Proposed
Houses	2 for every 3-4 bed unit (482)		482
1-2 bed Apts	1.2 per unit (453)	515	514
3-bed+ Apts	2 per unit (62)		
NC Retail	4 per 100m ² (41)	77	120
NC Cafe	10 per 100m ² (36)		
Creche	0.5 spaces per staff and 1 space per 10 children (13 spaces + staff (unknown))		28
District Park / Active Space	Not stated		Park (33) Active Space (46)

Bicycle Parking

11.6.18. A comparison between the proposed bicycle parking and WCDP standards is outlined in the following table.

Table 3: Compliance with WCDP Bicycle Parking standards

Unit	WCDP Standard		Proposed
	Long term	Visitor	
Apt Blocks 1 and 2	385	40	606
Apt Block 3	189	22	280
Apt Block 4	63	6	80
NC (Residential)	113	12	168
NC (Shops)	1 for every 10 car spaces (12)		36
Creche	Not stated		30
Playing Fields	1 space per 3 players (unknown)		154
District Park	Not stated		

11.6.19. Having regard to the above, I am satisfied that the proposals comfortably exceed the stated CDP standards. I also note that SPPR 4 of the Compact Settlement Guidelines requires a general minimum standard of 1 cycle space per bedroom as well as an unspecified quantum of visitor cycle parking. Having regard to the table above, I am satisfied that the proposals satisfactorily address SPPR 4.

Conclusion

11.6.20. I have outlined the main traffic and transport elements of the development in respect of public transport, road traffic, active travel, and car/bicycle parking. I acknowledge that there are significant inter-dependencies between these factors, particularly with regard to the capacity and quality of sustainable/active travel services and their impact in reducing the level of dependency on unsustainable car usage.

11.6.21. I have noted a diverse range of views on these matters between third-parties, WCC, and prescribed bodies. And while I acknowledge that WCC, the NTA, and TII were generally satisfied with the traffic and transport impacts, I also note that other parties

(including KNRO) raised concerns about certainty and timing for the delivery other relevant transport upgrades. This is particularly relevant given the significant passage of time since the making of the application and the lack of clarity on the current status of all relevant traffic and transport projects. Furthermore, the status of the LAP is unclear, and the scale/capacity of the Fassaroe Action Area is excessive relative to CDP Core Strategy housing targets, which will have significant implications for traffic and transportation.

11.6.22. In conclusion, I consider that traffic and transportation issues require review in light of the significant changes to the land use and transportation context, particularly having regard to the excessive scale/capacity of the Fassaroe Action Area relative to CDP Core Strategy housing targets, and non-compliance with the principles of compact growth, sequential development and phasing as outlined in the CDP. Consistent with CPO 12.3 of the CDP, I consider that any such review should be through the preparation and / or update of existing Area Based Transport Assessments and Local Transport Plans for all towns in Levels 1-4 of the County settlement hierarchy (including Bray) in collaboration and with the support of the relevant transport agencies, and to utilise these assessments and plans to inform land use and investment decisions, including the preparation of future Local Area Plans. I do not consider that this matter would be appropriately addressed in the consideration of an individual application.

11.6.23. Having regard to the above and my substantive concerns about the principle of the development, I do not consider that a resolution could be provided through further information. Accordingly, I do not consider that an Oral Hearing would be warranted under s.18(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).

11.7. Building Height, Density, Design, & Visual Amenity

Proposed Height and Density

11.7.1. The application includes a mix of 2 and 3-storey houses together with a number of apartment blocks up to 7-storeys above basement/podium level. It is proposed to construct 650 residential units within a stated net site area of 11.55 ha, which results in a stated net density of 56 uph.

11.7.2. However, the proposed density requires reconsideration in accordance with Appendix B of the Compact Settlement Guidelines. On this basis, the site area for density purposes should be reduced commensurate with the residential GFA as a portion (i.e. 96.4%) of the overall GFA. Furthermore, the proposed 'link road' is classified as a 'Link Street' in the applicant's Engineering Planning Report and Appendix B of the Guidelines clarifies that such areas should be excluded. Therefore, based on the exclusion of the Link Street (1.75 ha)¹ and the non-residential portion of the floorspace, I consider that a reduced net site area of c. 9.5 ha would result in an increased net density of 68 uph. However, I would accept that precise details of the site area measurements are not available at this stage.

Policy on Building Height and Density

- 11.7.3. Chapter 3 of the *Building Height Guidelines* (2018) outlines a presumption in favour of buildings of increased height in urban locations with good public transport accessibility. It outlines broad principles for the consideration of proposals which exceed prevailing building heights, including the extent to which proposals positively assist in securing National Planning Framework objectives of focusing development in key urban centres, and the extent to which the Development Plan/LAP comply with Chapter 2 of the Guidelines and the NPF. SPPR 3 outlines that, subject to compliance with the criteria outlined in section 3.2 of the Guidelines, the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. SPPR 4 outlines that in greenfield or edge of city/town locations planning authorities must secure the minimum densities for such locations set out in 'Sustainable Residential Development in Urban Areas'² or any amending or replacement Guidelines; a greater mix of building heights and typologies; and avoid mono-type building typologies, particularly, but not exclusively so in any one development of 100+ units.
- 11.7.4. The *Apartments Guidelines* (2023) states that 'Central and/or Accessible Urban Locations' are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments. 'Intermediate Urban Locations' are generally suitable for smaller-scale (will vary subject to location), higher density development that may wholly comprise

¹ Estimated as 1.75 ha (i.e. c. 1km road length within development area x width of 17.5m)

² Since replaced by the 'Compact Settlement Guidelines' (2024)

apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net). 'Peripheral and/or Less Accessible Urban Locations' are generally suitable for limited, very small-scale (will vary subject to location), higher density development that may wholly comprise apartments, or residential development of any scale that will include a minority of apartments at low-medium densities (will also vary, but broadly <45 dwellings per hectare net).

- 11.7.5. More recently, the *Compact Settlement Guidelines* (2024) set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. It is intended that the Guidelines should be read in conjunction with other guidelines (including the Building Height Guidelines and the Apartments Guidelines) where there is overlapping policy and guidance. Where there are differences between these Guidelines and Section 28 Guidelines issued prior to these guidelines, it is intended that the policies and objectives and specific planning policy requirements of these Guidelines will take precedence.
- 11.7.6. Policy and Objective 3.1 of the Guidelines is that the recommended residential density ranges are applied within statutory development plans and in the consideration of individual applications, and that these density ranges are refined further at a local level using the criteria set out in Section 3.4 where appropriate.
- 11.7.7. Bray is a Metropolitan Town and Table 3.3 outlines that the 'Centre and Urban Neighbourhoods' category includes: (i) the town centre and immediately surrounding neighbourhoods, (ii) strategic and sustainable development locations, and (iii) lands around existing or planned high capacity public transport nodes or interchanges (defined in Table 3.8). I do not consider that the site comes within (i) or (iii) above. However, I consider that it is consistent with a 'strategic and sustainable development location' having regard to the criteria in section 4.4.4 of the 'Development Plan Guidelines' (2022)³. It is a policy and objective of the Compact Settlement Guidelines that residential densities in the range 50 dph to 150 dph (net) shall generally be applied in the centres and in urban neighbourhoods of Metropolitan Towns.

³ As is referenced in the Compact Settlement Guidelines

- 11.7.8. In addition to the density ranges outlined in section 3.3 of the Guidelines, section 3.4 recommends that the ranges should be refined having regard to: (Step 1) Proximity and Accessibility to Services and Public Transport; and (Step 2) Considerations of Character, Amenity and the Natural Environment.
- 11.7.9. Regarding Step 1, the Guidelines outline that planning authorities should encourage densities at or above the mid-density range at the most central and accessible locations in each area, densities closer to the mid-range at intermediate locations and densities below the mid-density range at peripheral locations.
- 11.7.10. The applicant's Public Transport Access Strategy (PTAS) outlines that the development comprises 'Phase 1' and would be developed over 4 years. By Year 3, Table 7-3 of the PTAS outlines that the development would be served by 7 bus services during the peak hour (i.e. a frequency of c. 8½ mins). The bus services would include several stops along the proposed Link Road through the site, thereby ensuring that the lands are within 500 metres of the services. Accordingly, despite the existing characteristics of the site, I consider that the proposed public transport services would be consistent with an 'Accessible Location' as per Table 3.8 of the Guidelines.
- 11.7.11. As previously outlined, the Guidelines encourage densities at or above the mid-density range at 'accessible locations'. Given that densities in the range 50 dph to 150 dph (net) shall generally be applied in the centres and in urban neighbourhoods of Metropolitan Towns, the mid-density range would be c. 100 dph. The proposed density of 68 dph would be significantly lower than the mid-density range and, accordingly, would not be consistent with the Guidelines. Similarly, I do not consider that it would be consistent with RPO 5.4 in the RSES which outlines that future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities as set out in the 'Sustainable Residential Development in Urban Areas'.⁴

⁴ Subsequently replaced by the Compact Settlement Guidelines.

11.7.12. Regarding the 'Step 2' considerations, I would state the following:

(a) Local Character

Given that the majority of development in the surrounding area is characterised by low-density / one-off housing, it is inevitable that the nature and scale of the proposed development would have a significant impact on local character. I acknowledge that planning policy at regional and local level supports the principle of development at this location, although I would nonetheless consider that there would be a negative impact on local character.

(b) Historic Environments (built and landscape heritage)

Built heritage impacts are considered further in section 13.12 (EIA) of this report. I would accept architectural heritage would not be significantly affected. However, given the scale of the development, I would concur with the view of the DHLGH that further archaeological assessment should be carried out in advance of any planning decision.

Impacts on landscape are considered further in section 13.13 (EIA) of this report. I acknowledge that the applicant's EIAR identifies significant landscape and visual effects at operational stage but does not deem these effects to be negative. I consider that these EIAR conclusions are largely based on planning policy support for the redevelopment of the overall Action Area and the consequent transformation of the landscape. However, in light of the previous concerns I have raised about the excessive scale of the Action Area relative to CDP Core Strategy targets, I do not consider that the redevelopment of the entire Action Area is consistent with the proper planning and sustainable development of the area. And in the absence of any such established policy context to support the transformation of the wider landscape, I consider that the impacts of the development would be negative. Furthermore, consistent with third-party concerns, I consider that the proposed density (which is below recommended levels as previously discussed) would not facilitate compact growth, would encourage urban sprawl, and would detract from the rural landscape character which separates Bray and Enniskerry.

(c) The Environment and Protected Habitats and Species

These matters are discussed further in sections 12 (AA) and 13.7 (EIA) of this report. As per section 12, I have outlined fundamental Appropriate Assessment concerns about the impact of the development on Ballyman Glen SAC, which would preclude the Board from granting permission in this case.

(d) Residential Amenities

I have considered these matters in section 11.5 of this report. I do not consider that there would be any impacts that would warrant further consideration having regard to the more substantive concerns of principle outlined in my assessment.

(e) Water Supply and Wastewater Networks

I note that the Irish Water submission has confirmed that impacts on water supply and wastewater network assets are acceptable subject to conditions.

11.7.13. Having regard to the foregoing and the provisions of the Compact Settlements Guidelines, I consider that the proposed density is below recommended levels and would not encourage compact growth. And when viewed in the context of the need to reduce the scale/capacity of the Fassaroe Action Area commensurate with CDP Core Strategy targets, the proposed development density would encourage urban sprawl which would detract from the landscape character between Bray and Enniskerry.

11.7.14. At local level, the WCDP (CPO 6.13) requires that new residential development achieves the minimum densities as set out in Table 6.1, subject to further assessment and consideration of national guidance. Table 6.1 outlines density standards as per the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), which are now superseded by the Compact Settlement Guidelines (2024) as discussed above. Nonetheless, it outlines that minimum densities shall apply to Bray including a minimum of 50 uph in 'Public Transport Corridors' and minimum density of 35-50 uph in 'Outer Suburban / Greenfield Sites'. Although the proposed development would exceed the stated minimum densities, I consider that it is still below recommended levels as per the Compact Settlement Guidelines.

11.7.15. In relation to 'height and scale', CPO 6.17 of the CDP is to facilitate higher buildings subject to compliance with the assessment criteria set out in the Building Heights Guidelines and locations identified in LAPs. The Bray MD LAP does not outline any specific ranges for building height at this location.

Conclusion

11.7.16. I acknowledge the strategic importance of this location and the support for its development in accordance with RSES and CDP Policy. And while relevant planning policy generally supports increased height and density, I would also accept the importance that the height, scale and design of development is sensitively managed. In this regard I have noted third-party concerns about the scale of the development and its impact on this 'greenbelt' area between Bray and Enniskerry, as well as impacts on the wider landscape and tourist attractions.

11.7.17. Ultimately, I would again highlight that there is a concern of principle about the excessive scale/capacity of the Action Area relative to CDP Core Strategy targets, as well as non-compliance with the principles of compact growth, sequential development and phasing. And for the reasons outlined in this section, I consider that the proposed density is below recommended levels, would not encourage compact growth, and when viewed in the context of the need to reduce the scale/capacity of the Fassaroe Action Area commensurate with CDP Core Strategy targets, the proposed development density would encourage urban sprawl which would detract from the landscape character between Bray and Enniskerry.

11.7.18. I acknowledge that the density recommendations outlined in the Compact Settlements Guidelines were published after the making of the application. However, having to my other substantive and fundamental concerns about the principle of the development, as well as other concerns outlined throughout this assessment, I do not consider that a resolution could be provided through further information or that an Oral Hearing would be warranted under s.18(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).

11.8. Material Contravention

- 11.8.1. As previously outlined in section 6.5 of this report, the application does not identify any elements of the development that would materially contravene the old WCDP 2016-2022 or the Bray MD LAP 2018.
- 11.8.2. I have not identified any elements that would materially contravene current local planning policy, including the updated WCDP 2022-2028.

11.9. The Local Authority Recommendation

- 11.9.1. In section 8.4 of this report, I have acknowledged the WCC CE Report's recommendation that the proposed development would be acceptable subject to conditions. One of the stated reasons for the recommendation is that the development would be consistent with the zoning objectives for the area and with the provisions of the Action Area Plan as set out in the Bray MD LAP 2018.
- 11.9.2. However, having regard to my foregoing assessment and the adoption of the CDP 2022-2028 subsequent to the completion of the CE Report, I consider that the scale/capacity of the Action Area and its associated zoning objectives are inconsistent with the CDP Core Strategy housing targets. The proposed development has been designed based on the excessive scale/capacity of the Action Area, would not be in accordance with the principles of compact growth, sequential development and phasing, and would not provide an appropriate level of density to support compact growth. This report also outlines significant concerns in relation to Appropriate Assessment and archaeological impacts. Accordingly, I consider that the proposed development would be contrary to the proper planning and sustainable development of the area.

12.0 Appropriate Assessment

12.1. Introduction

The requirements of Article 6(3) as related to Appropriate Assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

12.2. Compliance with Article 6(3) of the EU Habitats Directive

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

12.3. Screening the need for Appropriate Assessment

An AA Screening exercise has been completed (See Appendix 1 of this report). In accordance with Section 177U of the Planning and Development Act 2000 (as amended), and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on the Ballyman Glen SAC in view of the conservation objectives of the qualifying interest features of that site.

It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is required on the basis of the effects of the project 'alone'.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

12.4. The Natura Impact Statement (NIS)

As outlined in Appendix 2 of this report, a Natura Impact Statement (NIS) has been submitted with the application. It considers the potential effects of the project on Ballyman Glen SAC. The NIS concludes that, following the implementation of mitigation measures and best practice, the construction and operation of the development alone, or in combination with other plans and projects, will not adversely affect the integrity of Ballyman Glen SAC.

12.5. Stage 2 Appropriate Assessment of implications of the proposed development

Appendix 2 of this report outlines the objective scientific assessment of the implications of the project on the qualifying interest features of Ballyman Glen SAC using the best scientific knowledge in the field. Following an Appropriate Assessment, I am not satisfied that the proposed development individually, or in combination with other plans and projects, would not adversely affect the integrity of Ballyman Glen SAC in view of the site's conservation objectives. In such circumstances the Board is precluded from granting permission under the provisions of Article 6(3) of the Habitats Directive (92/43/EEC).

This conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- The effectiveness of mitigation measures proposed.
- The potential for significant effects on the hydrological regime of the development site and associated impacts on the Qualifying Interests of Ballyman Glen SAC (Petrifying Springs with tufa formation; Alkaline Fen).
- The potential to undermine the conservation objectives for Ballyman Glen SAC and to prevent or delay the restoration of favourable conservation condition for Petrifying Springs with tufa formation and Alkaline Fen.

13.0 Environmental Impact Assessment

13.1. Statutory Provisions

- 13.1.1. The proposed development mainly involves the construction of 650 no. apartments; a 2.4km long link road; pedestrian/cycle routes including a bridge across the N11; 15.3 ha of public open space; Neighbourhood Centre, creche, and café kiosk; demolition of an existing dwelling; undergrounding and alteration of ESB lines; and remediation of 5 historic landfill sites. The site has a stated overall gross area of 78.522 hectares and a stated 'developable site area' of 11.55 hectares.
- 13.1.2. 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 Environmental Impact Assessment (EIA) is required for projects that involve.

i) Construction of more than 500 dwelling units

iv) 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.

- 13.1.3. Based on the above; the number of proposed dwellings proposed (650); and the overall size of the site (78.52 ha), the application concludes that EIA is required and an Environmental Impact Assessment Report has been submitted.

13.2. EIA Structure

- 13.2.1. This section of the report comprises the EIA of the proposed development in accordance with the Planning and Development Act 2000 (as amended) and the associated Regulations, which incorporate the European directives on EIA (Directive 2011/92/EU as amended by 2014/52/EU). It firstly assesses compliance with the requirements of Article 94 and Schedule 6 of the Planning and Development Regulations, 2001. It then provides an examination, analysis and evaluation of the development and an assessment of the likely direct and indirect significant effects of it on defined environmental parameters, having regard to the EIAR and relevant supplementary information. The assessment also provides a reasoned conclusion and allows for integration of the reasoned conclusions into the Boards decision, should they agree with the recommendation made.

13.3. Issues raised in respect of EIA

13.3.1. Any issues raised in third-party submissions and prescribed body submissions are considered later in this report under each relevant environmental parameter.

13.4. Compliance with the Requirements of Article 94 and Schedule 6 of the Regulations 2001

13.4.1. The following table outlines my assessment of compliance with the requirements of Article 94 and Schedule 6 of the Regulations.

Table 4 – Requirements of Article 94 and Schedule 6 of the Regulations

Article 94 (a) Information to be contained in an EIAR (Schedule 6, paragraph 1)	
Requirement	Assessment
A description of the proposed development comprising information on the site, design, size and other relevant features of the proposed development (including the additional information referred to under section 94(b)).	Chapter 2 of the EIAR outlines a detailed description of the construction and operational phases and characteristics of the development. Volume 3 of the EIAR comprises various environmental documentation in respect of the historic landfill remediation proposals, including an updated Environmental Risk Assessment (ERA). The description is adequate to enable a decision on EIA.
A description of the likely significant effects on the environment of the proposed development (including the additional information referred to under section 94(b)).	Chapters 4-13 of the EIAR describe the likely significant direct, indirect, interactive, and cumulative effects on the environment, including the factors to be considered under Article 3 of Directive 2014/52/EU.
A description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on	The individual chapters in the EIAR outline the proposed mitigation and monitoring measures. They include 'designed in' measures and measures to address potential adverse effects at construction and operational stages. The mitigation measures include standard good practices as well as site-specific measures.

the environment of the development (including the additional information referred to under section 94(b).	
A description of the reasonable alternatives studied by the person or persons who prepared the EIAR, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposed development on the environment (including the additional information referred to under section 94(b).	Section 2.10 of the EIAR outlines the alternatives considered and assessed. The main alternatives relate to the nature and extent of the development, which initially proposed 2000 units and was reduced to the current proposal of 650 units (with addition of the Neighbourhood Centre). It is stated that the reduced proposal will reduce the level of direct environmental impacts. Surface water drainage options were also considered with respect to potential impacts on Ballyman Glen SAC. I am satisfied, therefore, that the applicants have studied reasonable alternatives and that the main reasons for opting for the current proposal have taken into account potential impacts on the environment.
Article 94(b) Additional information, relevant to the specific characteristics of the development and to the environmental features likely to be affected (Schedule 6, Paragraph 2).	
A description of the baseline environment and likely evolution in the absence of the development.	The EIAR includes detailed descriptions of the baseline environment and the 'do-nothing effects' in the absence of the development. This enables a comparison with the predicted impacts of the proposed development.
A description of the forecasting methods or evidence used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required	Each chapter of the EIAR outlines the Methodology employed, including relevant legislation/guidance; data sources; surveys; and investigations. It clarifies that no particular technical difficulties were encountered.

information, and the main uncertainties involved.	
A description of the expected significant adverse effects on the environment of the proposed development deriving from its vulnerability to risks of major accidents and/or disasters which are relevant to it.	Section 2.9 of the EIAR outlines that the potential hazards with the onsite landfill include explosion / flammability, asphyxiation, chronic exposure, odour, and vegetation die-back. However, it concludes that the construction methods and landfill remediation measures will prevent unacceptable risk to the site or adjacent site users. No other particular risks of major accidents or disasters are identified, and the CEMP incorporates an emergency response plan for any such unlikely event.
Article 94 (c) A summary of the information in non-technical language.	The EIAR includes a Non-Technical Summary (Volume 1). I am satisfied that it is concise and comprehensive and is written in a language that is easily understood by a lay member of the public.
Article 94 (d) Sources used for the description and the assessments used in the report.	The sources used to inform the description and assessment of the potential environmental impacts are set out in each chapter and cumulatively in Chapter 14 (References).
Article 94 (e) A list of the experts who contributed to the preparation of the report.	Table 1-3 of the EIAR outlines 'Specialist Inputs' for each chapter, including details of their qualifications and experience.

Consultations

- 13.4.2. Section 1.8 of the EIAR outlines details of scoping and consultation, including consultation with prescribed bodies and Wicklow County Council. The application has been submitted in accordance with legislative requirements in respect of public notices. Submissions received from statutory bodies and third parties are considered in this report, in advance of decision making. I am satisfied, therefore, that consultations have been carried out and that third parties have had the opportunity to comment on the proposed development in advance of decision making.

13.5. Assessment of the likely significant direct and indirect effects

13.5.1. This section of the report sets out an assessment of the likely environmental effects of the proposed development under the environmental factors as set out in Section 171A of the Planning and Development Act 2000. It includes an examination, analysis and evaluation of the application documents, including the EIAR and submissions received, and identifies, describes and assesses the likely direct and indirect significant effects (including cumulative effects) of the development on these environmental parameters and the interactions of these effects.

13.6. Population and Human Health

13.6.1. Issues Raised

Third party submissions include concerns which can be summarised as:

- inadequate capacity of transport, social, and community infrastructure;
- the proposed new road will have adverse impacts at Ballyman Road properties relating to privacy, noise, vibration, pollution, and traffic hazard;
- inadequate consideration of the operational impacts of the Greenstar waste facility, including noise, hazardous materials, odour, and visual / overlooking.
- the operational impacts of the Bray Clay Pigeon Club, including noise and safety.
- negative environmental effects for residents associated with the landfill.

13.6.2. Examination, analysis and evaluation of the EIAR

Chapter 4 considers Population and Human Health and outlines a detailed analysis of the study area and receiving environment.

Construction Phase

The construction phase will have temporary construction traffic, dust, odour, and noise related impacts, none of which are considered significant. Contractor operatives working on or close to the historic landfills may be exposed to flammable gases during excavations and site clearance. In the absence of mitigation measures this could potentially have moderate to significant adverse impacts on health.

The main mitigation measures can be summarised as:

- Construction management plan and construction traffic management plan

- Compliance with Health & Safety requirements for workers, particularly those related to potential exposure to gas and asbestos.

No significant residual effects are predicted at construction stage.

Operational Phase

The transformation of the site is likely to have a moderate to significant impact on existing residents in the immediate term, which will lessen over time. Gas impacts associated with the landfill will be appropriately managed, including the proposed capping, to prevent significant impacts on human health.

The main mitigation measures are limited to the landfill remediation proposals including the Historic Landfill Remediation Report, RPS, 2022 and the Gas Management Strategy, RPS, 2022, and a monitoring plan.

No significant residual effects are predicted at operational stage.

Other Effects

‘Do-nothing’ – Housing/population growth will not occur as envisaged and there will be moderate adverse impacts on local services, amenities, and businesses.

‘Cumulative’ - The future development of the overall Action Area Plan will result in increased residential and working communities. No other permitted or proposed large scale developments would result in cumulative impacts.

13.6.3. Assessment: Direct, Indirect and Cumulative Effects

I have acknowledged the identified impacts and the associated mitigation measures, including those interactive impacts/measures identified in other sections of the EIAR. I have also already considered a range of impacts on population and human health in sections 11.2 – 11.6 of this report.

I acknowledge that the main potential impacts at construction and operational stage identified in the EIAR relate to the landfill sites, and I note that mitigation measures have been included to avoid significant effects. However, as per section 11.2 of this report I have outlined concerns about the potential for significant population effects given the excessive scale of the Action Area relative to CDP Core Strategy targets.

13.6.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

Having regard to the foregoing, it is considered that the main significant direct, indirect, and cumulative effects on Population and Human Health, after the application of mitigation measures, are:

- Significant effects on population as a result of facilitating the development of the Fassaroe Action Area at an excessive scale relative to CDP Core Strategy housing targets.

13.7. **Biodiversity**

13.7.1. **Issues Raised**

A submission from the Department of Housing, Local Government and Heritage raises issues relating to:

- Ballyman Glen SAC and potential impacts on Qualifying Interests (Petrifying Spring and Alkaline Fen) as a result of changes to the hydrological regime related to the height of the water table, recharge, water flows, and proposals for soakaway and SUDS capacity/management/maintenance.
- The determination as to whether findings of wet woodland habitat within Ballyman Glen SAC has affinities to Annex I priority habitat Alluvial Forests should be made using the Irish Vegetation Classification System.
- An area near Landfill Site 2 should be surveyed for Sand Martin and required mitigation be put in place.
- Consideration should be given to inclusion of bat bricks within the fabric of the apartment buildings close to Ballyman Glen SAC.

A submission from Inland Fisheries Ireland highlights the watercourses and associated habitats/species, and proposals for storm water discharge to same. It outlines that surface water run-off, particularly during construction, has potential to damage watercourses through increased run-off and sediment loading, or through the remediation of historic landfill sites, which could impact the County Brook and Dargle systems. It recommends that the development adheres to relevant standards and guidance to protect watercourses.

The third-party submissions also include concerns about:

- Negative environmental impacts for Ballyman SAC given that the proposed development includes landfill locations.
- Impacts on populations of Red Kites observed in the area regularly.

13.7.2. Examination, analysis and evaluation of the EIAR

Chapter 5 considers impacts on Biodiversity, including species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC. It is mainly based on desk studies, consultation with prescribed bodies, and a range of field surveys. EIAR Table 5-17 summarises the ecological features within the zone of influence.

Construction Phase

The main potential significant effects identified can be summarised as:

- Impact on Annex I habitats of Ballyman Glen SAC (Alkaline Fen and Petrifying Springs with tufa formation) as a result of alteration of water quality, alteration of hydrological regime and degradation of habitat.
- Loss / degradation of woodland / scrub / trees / hedge habitats, including the spread of Japanese Knotweed.
- Avifauna – Loss of habitat associated with tree/vegetation clearance.
- Bats – Loss of roosting potential within house to be demolished; loss of foraging and commuting habitat; lighting disturbance.
- Badgers – Commuting interference / road death.
- Otter – Degradation of water quality may impact on current food chains.
- Aquatic Habitats - Suspended solids and deleterious materials in runoff.

The main mitigation measures can be summarised as follows:

- Implementation of a Construction Environmental Management Plan.
- Petrifying Springs – Measures for storage / use of hydrocarbons.
- Woodland / vegetation – Access restrictions and protection measures.
- Badger – Underpass and fencing along distributor road.
- Non-volant mammals – Trees to be checked prior to felling.

- Bats – Trees / woodland to be protected and trees/buildings to be checked prior to felling; additional landscaping to mitigate loss of commuting/foraging habitat; bat boxes to be erected in woodland; and control of light pollution.
- Birds – No vegetation clearance/felling during breeding season.
- Invasive Species – Invasive Plant Management Plan will be implemented.
- Pollution – Measures will be implemented to control suspended solids and other substances and to deal with environmental incidents / accidents.

Following the implementation of mitigation measures, the main predicted residual effects can be summarised as:

- Ballyman Glen SAC / pNHA – Reduced groundwater levels are not expected to have significant effects and landfill capping will have positive effects on water quality due to reduced leachate seepage.
- Badger – Disruption to movement and reduction in foraging/territory area.

Operational Phase

The main potential significant effects identified can be summarised as:

- Impact on Annex I habitats of Ballyman Glen SAC (Alkaline Fen and Petrifying Springs with tufa formation) as a result of alteration of hydrological regime and degradation of habitat due to increased human presence.
- Bats - Distributor road increases the risk of direct collision impacts; lighting.
- Badger - Interference with commuting / road death; disturbance to setts.
- Aquatic Ecology – Hydrology changes associated with surface water, runoff, erosion, and leakage; hydrocarbons runoff.

Many of the proposed mitigation measures replicate the ‘construction phase’.

Additional measures can be summarised as follows:

- Hydrology changes - Run-off shall be prevented from entering open drains, gullies, or open water sources, and temporary measures put in place at the outfall to remove sediments and oil; landfill areas should be maintained and monitored regularly to ensure compaction of materials and reduce silt mobilisation; and a

leachate interceptor drain should be constructed on the downstream gradient perimeter of all landfill sites.

- Hydrocarbons - Run-off from the distributor road shall be channelled through the collection system and hydrocarbon interceptor; and a sustainable drainage system on the proposed road will prevent significant pollution to surface waters.

Following the implementation of mitigation measures, the main predicted residual effects can be summarised as:

- Ballyman Glen SAC / pNHA - As per construction phase.
- Badger - As per construction phase.
- Bats – Reduced dark areas will reduce feeding potential; bat boxes monitored.

Other Effects

Do-nothing' – The historical landfill sites would continue to contaminate the local groundwater system with leachates and would continue to pose a threat to the conservation value of Ballyman Glen.

'Cumulative' – Table 5-18 considers plans, projects and land use and does not identify any potential for adverse cumulative / in-combination effects.

13.7.3. Assessment: Direct, Indirect and Cumulative Effects

In addition to the issues raised in the EIAR, I note that the submissions received have raised concerns about impacts on Annex I priority habitat Alluvial Forests and bird species including Red Kite and Sand martin.

However, as per section 12 of this report, I have outlined fundamental biodiversity concerns about the impact of the development on Ballyman Glen SAC, which would preclude the Board from granting permission in this case. Accordingly, I consider that the proposed development is unacceptable from a biodiversity perspective.

13.7.4. Conclusion: Direct, Indirect, and Cumulative Effects

Having regard to the foregoing, it is considered that the main significant direct, indirect, and cumulative effects on Biodiversity, after the application of mitigation measures, are:

- The potential for significant effects on the hydrological regime of the development site and associated impacts on the Qualifying Interests of Ballyman Glen SAC (Petrifying Springs with tufa formation; Alkaline Fen).

13.8. Land, Soil, Geology & Hydrogeology

13.8.1. Issues Raised

The submission from the Department of Housing, Local Government and Heritage raises issues relating to Ballyman Glen SAC and potential impacts on Qualifying Interests (Petrifying Spring and Alkaline Fen) as a result of changes to the hydrological regime related to the height of the water table, recharge, water flows, and proposals for soakaway and SUDS capacity / management / maintenance.

The third-party submissions also include concerns about negative environmental impacts associated with the landfill on Ballyman Glen SAC and local residents.

13.8.2. Examination, analysis and evaluation of the EIAR

Chapter 6 considers impacts on soils, geology and hydrogeology. Based on TII methodology, the importance of the hydrogeological features is rated as 'Extremely High Importance'. The underlying aquifer is locally important and is used for domestic and agricultural purposes. In addition, it hosts the Ballyman Glen SAC / pNHA. Emerging groundwater spring flows feed the tufa deposits and alkaline fen which are Groundwater Dependant Terrestrial Ecosystems (GWDTE).

Construction Phase

The main potential significant effect identified is the capping works associated with landfill remediation, which will have a significant positive impact on slope stability.

The main proposed mitigation/monitoring measures can be summarised as:

- An earthworks balance will be implemented to maximise the re-use of materials within the site and minimise the need for the importation of materials.
- A Resource and Waste Management Plan (RWMP) will be implemented.
- Measures for soil handling to minimise erosion.
- Measures for prevention of soil / bedrock contamination.
- Measures for managing the excavation of waste.

- Hydrogeology – proposals to include a CEMP and measures for ‘soil handling, removal and compaction’ and ‘fuel and chemical handling’.
- A Capping Quality Assurance (CQA) plan will be implemented and supervised.
- Monitoring of surface water control and construction mitigation measures.

No significant residual effects are predicted.

Operational Phase

The main potential significant effect identified relates to construction on the landfill areas leading to settlement resulting in damage to infrastructure, which is predicted to range from ‘long term slight to significant negative’. It is predicted that the hydrological and hydrogeological environment will not adversely change.

The main proposed mitigation/monitoring measures can be summarised as:

- Oil interceptors and paved parking areas.
- Development on made ground / landfill sites to take account of differential settlement, gas ingress etc.
- Surface water drainage design to account for increased hardstanding areas.
- The landfill works will be monitored in relation to gas, surface water, leachate, settlement, and the requirements of the Certification of Authorisation.
- Monitoring of soil & groundwater, oil-water interceptors, and drainage system.

Following the implementation of mitigations measures, it is predicted that there will be a long term significant positive impact from the incorporation of historic landfill sites 1 and 2 into the district park.

Other Effects

‘Do Nothing’ - The historical landfill sites would continue to contaminate the local groundwater system with leachates and would continue to pose a threat to the conservation value of Ballyman Glen SAC.

‘Cumulative’ – Section 6.4.5 of the EIAR considers the cumulative impacts of other projects and does not identify any significant effects.

13.8.3. **Assessment: Direct, Indirect and Cumulative Effects**

As previously outlined, I have outstanding concerns about impacts on the hydrological regime, which would have associated impacts on hydrogeology and Ballyman Glen SAC. These concerns would preclude the Board from granting permission in this case.

13.8.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

Having regard to the foregoing, it is considered that the main significant direct, indirect, and cumulative effects on Land, Soil, Geology and Hydrogeology, after the application of mitigation measures, are:

- The potential for significant effects on the hydrological regime of the development site and associated impacts on hydrogeology and the Qualifying Interests of Ballyman Glen SAC (Petrifying Springs with tufa formation; Alkaline Fen).

13.9. **Water**

13.9.1. **Issues Raised**

The submission from the Department of Housing, Local Government and Heritage raises issues relating to Ballyman Glen SAC and potential impacts on Qualifying Interests (Petrifying Spring and Alkaline Fen) as a result of changes to the hydrological regime related to the height of the water table, recharge, water flows, and proposals for soakaway and SUDS capacity / management / maintenance.

The Inland Fisheries Ireland submission highlights the watercourses and associated habitats/species, and proposals for storm water discharge to same. Surface water run-off, particularly during construction, has potential to damage watercourses through increased run-off and sediment loading, or through the remediation of historic landfill sites, which could impact the County Brook and Dargle systems. It is recommended that the development adheres to relevant standards and guidance to protect watercourses.

The Irish Water submission outlines that water supply and wastewater proposals are acceptable subject to upgrades of the water supply infrastructure.

The WCC submission outlines the need for confirmation / clarification in relation to the stormwater discharge rates; the proposed outfall to the County Brook; stormwater line depths; outfall invert levels at Pond 4; use of filter drains in private

rear gardens; climate change allowances; petrol interceptor capacity; Phase 2 details; and culverting of watercourses.

13.9.2. Examination, analysis and evaluation of the EIAR

Chapter 7 'Hydrology, Flood Risk and Water Services' considers impacts on the hydrological environment and water services. Based on TII methodology, the importance of the hydrological features (such as the presence of the Annex I habitats and the status of the Ballyman Glen SAC) is rated as 'Extremely High Importance'.

Construction Phase

The main potential significant effects identified can be summarised as:

- Increased sediment loading in run-off.
- Contaminated water due to accidental spills and leaks.

The main mitigation/monitoring measures proposed can be summarised as:

- Implementation of a Construction and Environmental Management Plan.
- Surface water run-off control measures.
- Fuel and chemical handling procedures to prevent contamination.
- Soil removal and compaction to prevent negative impacts.
- Regular inspection of surface water control measures.
- Regular inspection of construction mitigation measures.

No significant residual effects are predicted.

Operational Phase

The main potential significant effects identified can be summarised as:

- Accidental discharge of hydrocarbons from vehicles to stormwater drainage may arise from areas of hardstand and drainage infrastructure.
- Impact on the river morphology and river flows with the potential increase in surface run-off.

The EIAR predicts that the implementation of the design and mitigation measures will ensure that potential impacts will not occur and there will be no residual impacts.

Monitoring measures will apply to soil and groundwater, oil-water interceptors, and the drainage system.

Other Effects

‘Do Nothing’ – Drainage would continue as current.

‘Cumulative’ – Section 7.8 of the EIAR considers that no significant cumulative effects will occur.

13.9.3. Assessment: Direct, Indirect and Cumulative Effects

As previously outlined, I have outstanding concerns about impacts on the hydrological regime and associated impacts on Ballyman Glen SAC. These concerns would preclude the Board from granting permission in this case. Section 14 of this report also outlines concerns about the need for further assessment of impacts on the Water Framework Directive status of waterbodies, albeit that the concerns are primarily related to the ecological impacts as previously discussed.

13.9.4. Conclusion: Direct, Indirect, and Cumulative Effects

Having regard to the foregoing, it is considered that the main significant direct, indirect, and cumulative effects on Water, after the application of mitigation measures, are:

- The potential for significant effects on the hydrological regime of the development site and associated impacts on the Qualifying Interests of Ballyman Glen SAC (Petrifying Springs with tufa formation; Alkaline Fen).

13.10. Air & Climate

13.10.1. Issues Raised

Third-party submissions include concerns about traffic pollution and the operational impacts of the adjoining waste facility (including odour).

13.10.2. Examination, analysis and evaluation of the EIAR

Chapter 8 considers Air Quality and Climate impacts.

Construction Phase

The main potential effects identified can be summarised as:

- Temporary slight adverse dust impacts for humans and temporary negligible impacts on sensitive ecosystems.
- Permanent adverse climate impacts associated with greenhouse gas emissions.
- Temporary slight adverse odour as a result of gas from landfill disturbance.

The main mitigation measures can be summarised as:

- Implementation of a Dust Minimisation Plan.
- Odour mitigation measures to include construction methodology, gas monitoring, and odour control.
- Measures to minimise GHG emissions from transport vehicles.
- Use of materials with a reduced environmental impact.
- Implementation of an Energy Management System.

Following the implementation of mitigation measures, the GHG emissions are identified as a 'permanent adverse' climate impact, but not significant.

Operational Phase

The main potential effects identified can be summarised as:

- Imperceptible/negligible traffic impacts on air quality for humans and ecosystems.
- Any potential losses of methane associated with the landfill locations will be short term and temporary and will readily dilute and disperse with no significant impact for air quality including odour for the area.

The main mitigation measures relate to traffic and largely refer to EU legislation to reduce emissions. No significant residual impacts are predicted.

Other Effects

'Do nothing' – Existing baseline trends will continue.

'Cumulative' – The cumulative effects, including traffic, have been considered and no significant effects are predicted.

13.10.3. Assessment: Direct, Indirect and Cumulative Effects

I acknowledge that the main construction impacts would relate to construction dust and gas/odour emissions associated with the landfill, while the main operational

impacts would relate to traffic emissions and gas/odour emissions associated with the landfill. However, I note that the EIAR calculations and the proposed mitigation measures demonstrate that the emissions will not result in significant effects.

13.10.4. Conclusion: Direct, Indirect, and Cumulative Effects

Having regard to the examination of environmental information above, it is considered that by virtue of the nature and scale of the proposed development involving limited emissions, together with the proposed mitigation measures, there is no potential for significant environmental effects on air quality or climate.

13.11. Material Assets

13.11.1. Issues Raised

As outlined in section 11.6 of this report, submissions have outlined varying opinions about the impact of the development on transportation infrastructure. Concerns have also been outlined about the impact on community/social infrastructure and businesses such as tourism and waste management. The Irish Water submission has confirmed that impacts on assets are acceptable subject to conditions.

13.11.2. Examination, analysis and evaluation of the EIAR

The EIAR considers 'material assets' in Chapter 12 'Traffic & Transportation', including an assessment of walking, cycling, public transport and vehicular traffic.

Construction Phase

The EIAR estimates construction traffic generation and considers its impact on the N/M11 Junction 6. The impact is expected to be negligible and temporary in nature during peak construction traffic movements.

The mitigation measures involve the implementation of a Construction Traffic Management Plan, and no significant residual effects are predicted.

Operational Phase

The EIAR considers the impact from the zoned lands at Fassaroe on the local and strategic road network, public transport, and pedestrian/cycle facilities. I have already outlined this assessment in section 11.6 of this report.

No additional operational mitigation is deemed necessary but the need for measures associated with Junction 6 and the roll out of bus services will be monitored.

No significant residual effects are predicted for the road network, but significant beneficial effects are predicted for pedestrians, cyclists, and public transport.

Other Effects

‘Cumulative’ – The assessment has considered the cumulative effects of other developments in the area and the proposed improvements to infrastructure/services.

13.11.3. Assessment: Direct, Indirect and Cumulative Effects

As outlined in section 11.6 of this report, I consider that traffic and transportation issues require review in light of the significant changes to the land use and transportation context. However, having regard to the substantive nature of my concerns about the principle of development, particularly the excessive scale/capacity of the Fassaroe Action Area relative to CDP Core Strategy housing targets, and non-compliance with the principles of compact growth, sequential development and phasing as outlined in the CDP, I do not propose to address the traffic and transportation issues further in the context of the consideration of this individual application.

I note that the EIAR concentrates specifically on traffic and transport and does not include a specific ‘material assets’ section addressing a wider range of ‘built services’ such as electricity, telecommunications, and gas, or other services such as waste management. However, I do not consider this is a determinative factor given the more substantive issues of principle that I have raised in this case.

13.11.4. Conclusion: Direct, Indirect, and Cumulative Effects

Having regard to the examination of environmental information as outlined above, I consider that traffic and transportation issues require review in light of the significant changes to the land use and transportation context, and that a wider assessment of impacts on ‘material assets’ is required.

13.12. Cultural Heritage

13.12.1. Issues Raised

The submission from the DHLGH raises concerns that a comprehensive field-based archaeological impact assessment has not been included in the EIAR. It concurs with the desk-based findings and recommendations that geophysical survey and archaeological testing (licensed under the National Monuments Acts 1930-2014) be

carried out, preferably in advance of any planning decision, and certainly well in advance of any site preparation and/or construction works. It outlines that there is high potential for archaeological features to survive within the site confines.

13.12.2. Examination, analysis and evaluation of the EIAR

Chapter 11 of the EIAR considers impacts on 'Archaeological, Architectural and Cultural Heritage'. The analysis of the study area identified 12 recorded monuments (1 within the site) and 3 protected structures (none within the site).

Construction Phase

The main potential impacts identified are that any unknown subsurface archaeological features or artefacts that might be located within the site during the construction phase of the development might not be identified and recorded.

Mitigation measures are proposed in the form of the appointment of an archaeologist; protection around recorded monuments; and further archaeological investigation / consultation. No residual impacts are predicted.

Operational Phase

No potential significant effects are identified; no mitigation measures are proposed; and no residual impacts are predicted.

Other Effects

'Cumulative' - It is not considered that the cumulative effect of the proposed development will cause any increased impacts to sites of Cultural Heritage interest.

'Worst case' – Archaeological heritage may be affected in the absence of a condition requiring pre-development testing and further archaeological requirements.

13.12.3. Assessment: Direct, Indirect and Cumulative Effects

I would accept that there are no architectural heritage features in close proximity to the site that would be significantly affected by the development.

Consistent with the submission from the DHLGH, I consider that the significant scale of the development and its location within the environs of archaeological monuments raises high potential for archaeological features to survive within the confines of the development area. I consider that a comprehensive field-based archaeological

impact assessment should have been carried out as part of the EIAR and that the potential for significant effects on archaeological heritage cannot be excluded.

13.12.4. Conclusion: Direct, Indirect, and Cumulative Effects

Having regard to the examination of environmental information as outlined above, I consider that significant effects on archaeological heritage cannot be excluded in the absence of further field-based archaeological impact assessment.

13.13. Landscape

13.13.1. Issues Raised

The third-party submissions include concerns that the scale of the development would adversely impact on the character of Enniskerry and its surroundings, which includes tourist attractions and an 'area of outstanding natural beauty', and concerns that there would be loss of a 'greenbelt' between Enniskerry and Bray.

13.13.2. Examination, analysis and evaluation of the EIAR

Chapter 10 of the EIAR outlines a 'Landscape and Visual Impact Assessment'. It includes an analysis of the site characteristics and wider surroundings, as well as an outline of relevant policy at the time of making the application. The visual impact assessment is based on 22 viewpoints.

Construction Phase

The main potential impacts are identified as follows:

- Localised temporary significant negative landscape and visual amenity effects associated with nearby residential properties and the two river valleys (Ballyman and Cookstown), but wider negative landscape and visual amenity effects would not be significant.

No mitigation measures are proposed and therefore the residual impacts are predicted to remain as above.

Operational Phase

The main potential impacts identified can be summarised as:

- Significant landscape effects which are classified as positive given compliance with the criteria of the Urban Design Manual (2009) published by the Department of Housing, Local Government and Heritage.
- Visual impacts in the immediate environs of the site (Views 1-8) are generally considered 'moderate positive', while views from the wider surrounding area are generally considered moderate/slight/imperceptible and neutral/positive.

No mitigation measures are proposed, and the residual landscape and visual amenity impacts are predicted to remain as above.

Other Effects

'Cumulative' - There are no permitted developments with which the proposed development would interact to cause landscape or visual impacts more significant. Future phases will be of similar design and material quality and therefore the greater in-combination effects will also be generally positive or neutral.

13.13.3. Assessment: Direct, Indirect and Cumulative Effects

I would concur that the construction stage would result in significant temporary negative effects, as is generally the case with construction projects of this scale. However, while the significant landscape and visual effects at operational stage are not deemed to be negative in the EIAR, I consider that these conclusions are largely based on planning policy support for the redevelopment of the overall Action Area and the consequent transformation of the landscape. In light of the previous concerns I have raised about the excessive scale of the Action Area relative to CDP Core Strategy targets, I do not consider that the redevelopment of the entire Action Area is consistent with the proper planning and sustainable development of the area. And in the absence of any such established policy context to support the transformation of the wider landscape, I consider that the landscape impacts of the development would be significant and negative.

13.13.4. Conclusion: Direct, Indirect, and Cumulative Effects

Having regard to the foregoing, it is considered that the main significant direct, indirect, and cumulative effects on Landscape, after the application of mitigation measures, are:

- Temporary significant negative landscape and visual amenity effects associated with the construction stage.
- Permanent negative landscape and visual amenity effects associated with the operational stage having regard to the scale of the development and its location outside the built-up area.

13.14. Interactions

Chapter 13 identifies and summarises the interrelationships of impacts. It clarifies that potential interactions have already been addressed in the various chapters throughout the EIAR.

13.15. Reasoned Conclusion

13.15.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicants, as well as the submissions received from the prescribed bodies and observers in the course of the application, I consider that the main significant direct, indirect, and cumulative effects of the proposed development on the environment, with the implementation of the proposed migration measures, are:

- Significant effects on population as a result of facilitating the development of the Fassaroe Action Area at an excessive scale relative to CDP Core Strategy housing targets.
- The potential for significant effects on the hydrological regime and hydrogeology of the development site and associated negative impacts on the Qualifying Interests of Ballyman Glen SAC.
- The potential for significant negative effects on archaeological heritage having regard to the scale and location of the proposed development within the environs of recorded archaeological monuments and the absence of field-based archaeological impact assessment.
- Temporary significant negative landscape and visual amenity effects associated with the construction stage.

- Permanent negative landscape and visual amenity effects associated with the operational stage having regard to the scale of the development and its location outside the built-up area.

13.15.2. In addition to the above, I have identified the need for further review of traffic and transport impacts and a wider examination of impacts on other 'material assets'.

14.0 Water Framework Directive

14.1. The impact of the proposed development in terms of the WFD is set out in Appendix 3 of this report. There are no watercourses within the site boundaries. There are three watercourses in the vicinity of the site, namely: County Brook along the northern boundary; Glencullen located approx. 0.61 km to the south; and the Dargle located approx. 0.23 km to the east. The County Brook River flows eastwards into the Dargle River, St. Georges Channel and the Irish Sea.

14.2. The site is underlain by thick permeable subsoil and as a result the drainage density is low and there are very few field drains in the area and no ponds or tributaries to the County Brook. Emergences of springs and seepages are evident in the riparian zone along the County Brook. These springs feed the alkaline fen and tufa deposits. The spring flows which are relatively small coalesce downhill to form a more defined channel.

14.3. Following a Flood Risk Assessment, it has been determined that the proposed development is located in Zone C (low probability of flooding) and is appropriate development. Any residual pluvial flood risk is to be addressed through the proposed surface water network including SuDS and will be attenuated / managed within areas of the site prior to final discharge at agreed Qbar greenfield run-off rates at four locations (the County Brook, 2 existing network connections, and a proposed soakaway).

14.4. As outlined in Appendix 3, the WDF status of the relevant waterbodies is 'Good', although I acknowledge that the Wicklow groundwater body is 'at risk' with agriculture identified as a pressure.

14.5. In relation to water quality, I am satisfied that the proposed mitigation measures would satisfactorily address the risk of deterioration. However, regarding water

quantity and the hydrological regime, I am not satisfied that the proposed development would not result in a risk of deterioration of waterbodies (River Dargle_030, Enniskerry Gravels groundwater, and Wicklow groundwater) or that it would not jeopardise these waterbodies in reaching their WFD objectives.

14.6. Therefore, in accordance with Appendix 3 of this report, I conclude on the basis of objective information that a more detailed assessment of water bodies is required in the form of a Water Status Impact Assessment. The reasons for this conclusion are as follows:

- The nature and scale of the proposed development.
- The proximity of the proposed development to waterbodies and the hydrological connections to same.
- The potential to impact on the hydrological regime as a result of the capping of the landfill areas and a lack of clarity in relation to storm water management on site.
- The potential for the impacts on the hydrological regime to affect the ecological status of Dargle River having regard to the potential for adverse impacts on the integrity of the Ballyman Glen SAC in view of the site's conservation objectives.

14.7. However, notwithstanding my conclusion about the requirement for a Water Status Impact Assessment, I do not consider that a resolution could be provided through further information having regard to my other substantive concerns about the principle of the development and Appropriate Assessment. Accordingly, I do not consider that an Oral Hearing would be warranted under s.18(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).

15.0 Recommendation

Having regard to the foregoing assessments, I recommend that permission be REFUSED for the proposed development based on the reasons and considerations set out in the following Draft Order.

16.0 Recommended Draft Board Order

Planning and Development Acts 2000 to 2022

Planning Authority: Wicklow County Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, in accordance with plans and particulars, lodged with An Bord Pleanála on the 13th of April 2022 by Cosgrave Property Group, care of RPS Group, Innishmore, Ballincollig, Cork.

Proposed Development comprises the following:

650 no. residential units comprising 241 no. houses and 409 no. apartments; Road link (2.4km) connecting N11 to Ballyman Road (with westerly connection to Ballyman Road already in place); Pedestrian / cycle route including bridge across the N11 to Dargle Road Upper; 15.3ha of District Park / Active Open Space; 3 No. pocket park areas comprising a total of 0.43ha.; 733sq.m approx. crèche with capacity for approx. 138 no. childcare spaces; Retail unit / café kiosk (108sq.m.) in district park; Neighbourhood Centre Phase 1 comprising 1,035sq.m. retail, 360sq.m. café, 480sq.m community concierge (serving entire Fassaroe community); 414sq.m. residential ancillary uses for residents of the neighbourhood centre apartments (residents lounge 256sq.m., residents gym 90sq.m., and residents concierge 68sq.m.), Demolition of an existing dwelling at Berryfield Lane; Undergrounding and alteration of 2 No. 38kV overhead ESB lines; undergrounding of 110 kV overhead lines and associated works including construction of 2 No. 110 kV Line Cable Interface Mast, associated 110 kV Overhead Line retirements, installation of ducting and underground cable and installation and retirement of electrical equipment and structures within the existing ESB Fassaroe Substation; Site development / ground works across the lands; Water supply, foul and surface water drainage proposals; Remediation of 5 no. historic landfill sites in line with Certificates of Authorisation issued to Wicklow County Council by the EPA in 2019.

Decision

REFUSE permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under.

Reasons and Considerations

1. The Core Strategy of the Wicklow County Development Plan 2022 – 2028 ('the Development Plan') outlines that there is a surplus of zoned residential land in Bray and that, prior to the adoption of new Local Area Plans reflecting the targets set out in the Development Plan, the assessment of such residential proposals will strictly adhere to the compact growth, sequential development and phasing principles set out in the Development Plan. Having regard to the nature, scale, design, and location of the proposed development, and given that it is proposed as the first phase of the comprehensive development of Fassaroe (Action Area 1) in accordance with Objective R5 of the Bray Municipal District Local Area Plan 2018 ('the Local Area Plan'), it is considered that the proposed development would not adhere to the compact growth, sequential development and phasing principles set out in the Development Plan, and would be contrary to the implementation of the Core Strategy in accordance with the Development Plan (Objective CPO 4.1) and the 'Residential Development Strategy for Bray MD' contained in the Local Area Plan which includes '*To adhere to the objectives of the Wicklow County Development Plan in regard to population and housing as are applicable to Bray MD*'. The proposed development would, accordingly, be contrary to the proper planning and sustainable development of the area.
2. Having regard to: the designation of Bray as a Metropolitan Town in the Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 and the Wicklow County Development Plan 2022 – 2028 ('the Development Plan'); the characteristics of this location which are consistent

with a 'strategic and sustainable development location' as referenced in the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in January 2024 ('the Compact Settlement Guidelines'); and the nature and extent of public transport associated with the application; it is considered that, notwithstanding the Board's concerns about compliance with the Development Plan Core Strategy, the development as proposed would constitute an insufficient and unacceptable level of density which would be contrary to Policy and Objective 3.1 of the Compact Settlements Guidelines. The proposed density would not support compact growth and would encourage further urban sprawl which would be seriously injurious to the value of the landscape separating Bray and Enniskerry. The proposed development would, accordingly, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the location of the site within and adjoining the Ballyman Glen Special Area of Conservation (SAC), the nature of the site conditions and the works associated with the proposed development, including impacts on groundwater recharge rates, the height of the water table, and water flows, as well as a lack of clarity in relation to surface water management measures, it is considered that the proposed development could significantly affect the hydrological regime and undermine the conservation objectives to restore the favourable conservation condition of the qualifying interests of this SAC (Alkaline Fen and Petrifying springs with tufa formation). It is therefore considered that the Board is unable to ascertain, as required by Regulation 27(3) of the European Communities (Natural Habitats) Regulations, 1997, that the proposed development will not adversely affect the integrity of a European Site, and it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

4. Having regard to the location, nature and large scale of the proposed development within a greenfield area in the environs of archaeological monuments identified in the Archaeological Survey of Ireland, there is high potential for archaeological features to survive within the confines of the development area. In the absence of a comprehensive field-based archaeological impact assessment accompanying the application and carried out to the requirements of the appropriate authorities, it is considered that a grant of permission would be premature, and would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Stephen Ward
Senior Planning Inspector

16th June 2025

Appendix 1 – Appropriate Assessment Screening

Screening for Appropriate Assessment Test for Likely Significant Effects	
1. Description of Project and Local Site Characteristics Case File: ABP 313314-22	
Brief description of project	Strategic Housing Development application for demolition of an existing dwelling, construction of 650 no. residential units (241 no. houses, 409 no. apartments), creche and associated works.
Brief description of site characteristics and potential impact mechanisms	<p>It is proposed to construct the above SHD on land which is largely undeveloped between Enniskerry and Bray. Detailed descriptions of the site and proposed development are outlined in sections 2 and 3 of the Inspector's Report, and in the documents provided by the applicant (including the Screening for Appropriate Assessment and Natura Impact Statement). In summary, it is proposed to construct:</p> <ul style="list-style-type: none"> • 650 residential units • A 2.4km road connecting the N11 to Ballyman Road • Pedestrian/cycle routes including a bridge across the N11 • 15.3 ha of public open space • Neighbourhood Centre, creche, and café kiosk • Demolition of an existing dwelling • Undergrounding and alteration of ESB lines • Connection to and partial replacement of the existing foul water sewer network • Surface water network including SuDS and attenuated / managed areas within the site prior to final discharge at 4 locations: County Brook; a proposed on-site soakaway, and the existing storm water network (2 locations) • Remediation of 5 historic landfill sites. <p>Localised portions at the northern end of the site are adjacent to and within Ballyman Glen SAC.</p>
Screening Report	Yes (Prepared by RPS Consultants)
Natura Impact Statement	Yes (Prepared by RPS Consultants)
Relevant Submissions	<p>The Development Applications Unit has submitted an observation on behalf of the Department of Housing, Local Government and Heritage. The issues raised relating to the appropriate assessment process centre on Ballyman Glen SAC and potential impacts on Qualifying Interests (Petrifying Spring and Alkaline Fen) as a result of changes to the hydrological regime related to the height of the water table, recharge, water flows, and proposals for soakaway and SUDS capacity/management/maintenance.</p> <p>A submission from Inland Fisheries Ireland highlights the watercourses and associated habitats/species, and proposals for storm water discharge to same. It outlines that surface water run-off, particularly during construction, has potential to damage watercourses through increased run-off and sediment loading, or through the remediation of historic landfill sites, which could</p>

	<p>impact the County Brook and Dargle systems. It recommends that the development adheres to relevant standards and guidance to protect watercourses.</p> <p>The third-party submissions also include concerns about negative environmental impacts for Ballyman SAC given that the proposed development includes landfill locations.</p>
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2. Identification of relevant European Sites using ‘source-pathway-receptor’ model

Four European Sites were identified as being located within a potential zone of influence of the proposed development as detailed in the table below. I note that the applicant included a greater number of European Sites in their initial screening consideration, with sites within 15km considered. There is no ecological justification for such a wide consideration of sites, and I have only included those sites with any possible ecological connection or pathway in this screening determination.

I note that the applicant’s screening exercise has not included the North-west Irish Sea SPA as it was completed prior to the designation of this European Site. The North-west Irish Sea SPA is an important resource for marine birds, and I have considered its qualifying interests and conservation objectives. I consider that potential for significant effects on the North-west Irish Sea SPA can be excluded as the proposed development would not result in impacts that could undermine the attainment of conservation objectives. The development would not result in impacts that could affect seabird population trends, cause disturbance of birds in the marine environment, their spatial distribution, forage distribution and abundance or cause barriers to access to the SPA or other ecologically important sites outside the SPA.

European Site (Code)	Qualifying Interests (summary) & Link to conservation objectives (NPWS, 2 nd April, 2025)	Distance from Proposed Development	Ecological Connections	Consider Further in Screening (Y/N)
Ballyman Glen SAC (000713)	Petrifying Springs with tufa formation; Alkaline Fens. https://www.npws.ie/protected-sites/sac/000713	Within & directly adjacent	Direct via land take, fragmentation / degradation of habitats.	Y
Bray Head SAC (000714)	Vegetated sea cliffs of the Atlantic and Baltic coasts; European dry heaths. https://www.npws.ie/protected-sites/sac/000714	2.7 Km East	Indirect/remote via County Brook, River Dargle and Killiney Bay / Irish Sea.	Y
Rockabill to Dalkey Islands SAC (003000)	Reefs; Harbour Porpoise https://www.npws.ie/protected-sites/sac/003000	6.3 Km North-east	Remote / tenuous connection via County Brook, River Dargle and Killiney Bay / Irish Sea.	Y
Dalkey Islands SPA (004172)	Roseate Tern; Common Tern; Arctic Tern https://www.npws.ie/protected-sites/spa/004172	8.4 Km North-east	Remote / tenuous connection via County Brook, River Dargle and Killiney Bay / Irish Sea.	Y

There is no desktop evidence to suggest that the qualifying species of Wicklow Mountains SPA, South Dublin Bay & River Tolka Estuary SPA, Dalkey Islands SPA and The Murrough SPA are using lands in the vicinity of the proposed works. Bird species identified during the site walkover surveys undertaken for the Biodiversity Chapter of the EIAR reflect the habitat assemblages present in the majority of the study area; i.e. improved pasture and arable fields fringed by hedgerow and treeline habitats. The study area also includes private residential dwellings, gardens and farm holdings, which also influence species composition and abundance. No Annex I or Red list species were recorded during the site visits.

3. The likely effects of the project (if any, alone or in combination) on European Sites

The proposed development will result in direct impacts on the Ballyman Glen SAC. Furthermore, given the size and scale of the proposed development and the hydrological connections to the three other European Sites within/adjoining the Irish Sea, the potential for indirect impacts generated at construction and operational stage require consideration.

The sources of impact and likely significant effects are detailed in the 'Screening Matrix' table below.

Site	Possibility of Significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
Ballyman Glen SAC	<p>Direct Impacts including land take and fragmentation / degradation of habitats.</p> <p>Remediation works to historical landfill sites.</p> <p>Surface water / run-off management proposals for construction and operational stages.</p>	Both QI habitats are dependent on groundwater regime and quality, which may be affected by the proposed works.
	Likelihood of significant effects from proposed development (alone): Yes If not, is there likelihood of significant effects occurring in combination with other plans or projects? N/A	
Bray Head SAC (000714)	Indirect connectivity via the County Brook, River Dargle, and Irish Sea.	These European Sites are designated for coastal habitats and species associated with routine estuarine and or tidal inundations and fluctuations, which are accustomed to high levels of water turbidity, fluctuations in sediment accretion, deposition and erosion. As a result, these QIs are not as sensitive to potential impacts associated with the proposed development and would not be significantly affected by low level or sporadic release in sediment or particulate matter. Similarly, the risk of release of other deleterious substances such as hydrocarbons, particulate matter, wet cement etc., is low. Therefore, potential impacts to these
Rockabill to Dalkey Islands SAC (003000)	Possibility of water quality impacts due to the release of sediment and other deleterious substances.	
Dalkey Islands SPA (004172)		

		sites are no longer considered as part of this assessment.
	Likelihood of significant effects from proposed development (alone): No. If not, is there likelihood of significant effects occurring in combination with other plans or projects? No. The QIs are accustomed to high levels of water turbidity, fluctuations in sediment accretion, deposition and erosion, and are not as sensitive to potential impacts associated with the proposed development and other effects in combination with other plans and projects.	
4. Conclusion as to whether the proposed development could result in likely significant effects on a European Site Based on the information provided in the applicant's screening report, my inspection of the site, and a review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result in significant effects on the Ballyman Glen SAC. I concur with the applicant's findings that such impacts could be significant in terms of the stated conservation objectives of the SAC when considered on their own and in combination with other plans and projects in relation to impacts on the regime and quality of groundwater and surface water.		
Screening Determination Finding of likely significant effects In accordance with Section 177U of the Planning and Development Act 2000 (as amended), and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on the Ballyman Glen SAC in view of the conservation objectives of the qualifying interest features of that site. It is therefore determined that Appropriate Assessment (Stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development is required.		

Appendix 2 – Appropriate Assessment

Appropriate Assessment

The requirements of Article 6(3) as related to Appropriate Assessment of a project under part XAB, sections 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination, the following is an Appropriate Assessment of the implications of the proposed Strategic Housing Development in view of the relevant conservation objectives of Ballyman Glen SAC based on scientific information provided by the applicant and considering expert opinion through observations on nature conservation.

Unless otherwise stated below, I am satisfied that the information provided is adequate to allow for Appropriate Assessment; that all aspects of the project which could result in significant effects are considered and assessed in the NIS; and that mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness.

Submissions / Observations

Department of Housing, Local Government and Heritage

Raises issues relating to Ballyman Glen SAC and potential impacts on Qualifying Interests (Petrifying Spring and Alkaline Fen) as a result of changes to the hydrological regime related to the height of the water table, recharge, water flows, and proposals for soakaway and SUDS capacity/management/maintenance.

Inland Fisheries Ireland

Highlights the watercourses and associated habitats/species, and proposals for storm water discharge to same. It outlines that surface water run-off, particularly during construction, has potential to damage watercourses through increased run-off and sediment loading, or through the remediation of historic landfill sites, which could impact the County Brook and Dargle systems. It recommends that the development adheres to relevant standards and guidance to protect watercourses.

Public Observations

Includes concerns about negative environmental impacts for Ballyman SAC given that the proposed development includes landfill locations.

European Sites

Ballyman Glen SAC

Summary of Key Issues that could give rise to adverse effects

- (i) Loss of habitat area / distribution and degradation of habitat
- (ii) Alteration of water quality
- (iii) Alteration of hydrological regime
- (iv) Introduction or spread of invasive species during construction

See Section 5.1 of the NIS.

Qualifying Interest features likely to be affected	Conservation Objectives (Relevant Targets and Attributes)	Potential Adverse Effects	Mitigation Measures for both QIs (summary) – See section 5.2 of NIS
Petrifying Springs with tufa formation	To restore favourable conservation condition. Area - stable or increasing. Distribution – No decline. Hydrological regime: height of water table; water flow – Maintain. Water quality – No increase on baseline nitrate & phosphate levels. Vegetation composition – Positive and negative indicator species. Vegetation structure – sward height. Physical structure – Cover should not be dominant or abundant.	Construction related suspended solid run-off may degrade the habitat as a result of pollution of surface waters. Remediation of landfill and disturbance of waste could potentially mobilise landfill leachate resulting in further contamination of the groundwater aquifer. Water quality will improve following the capping of the landfill due to the reduced recharge through the waste and reduced leachate generation. Potential reduction in / loss of habitat as a result of alteration in hydrological regime associated with the storm water management system, landfill capping works, and groundwater recharge levels. There are five stands of Japanese Knotweed with potential to spread into Ballyman Glen SAC. Potential degradation of habitat due to human disturbance.	Construction Environmental Management Plan. Sediment and Erosion Management Measures. Measures for the Installation of Surface Water Outfall. Measures for Landfill Capping, ESB Works and Localised Slope Stabilisation Works at Northern Boundary. Measures for storage and use of hydrocarbons. Measures to avoid the spread of Invasive Species (Japanese Knotweed Management Plan).

Alkaline Fen	<p>To restore favourable conservation condition. Area – stable or increasing. Distribution – No decline.</p> <p>Ecosystem function – maintain soil pH and nutrient status; active peat formation; maintain, or where necessary restore, appropriate natural hydrological regimes; maintain, or where necessary restore, as close as possible to natural or semi-natural, drainage conditions; maintain appropriate water quality, particularly pH and nutrient levels.</p> <p>Community diversity – Maintain variety.</p> <p>Vegetation composition – Maintain brown mosses; typical vascular plants; native negative indicator species at insignificant levels; non-native species <1%; native trees and shrubs <10%; soft rush and common reed <10%.</p> <p>Vegetation structure - litter cover <25%.</p> <p>Physical structure – disturbed bare ground <10%; disturbed proportion of vegetation cover where tufa is present <1%.</p> <p>Indicators of local distinctiveness – No decline / maintain.</p>	<p>Remediation of landfill 3A may lead to suspended solids run-off and degrade the habitat as a result of pollution of surface waters.</p> <p>Remediation of landfill and disturbance of waste could potentially mobilise landfill leachate resulting in further contamination of the groundwater aquifer.</p> <p>Water quality will improve following the capping of the landfill due to the reduced recharge through the waste and reduced leachate generation.</p> <p>Potential reduction in / loss of habitat as a result of alteration in hydrological regime associated with the storm water management system, landfill capping works, and groundwater recharge levels.</p> <p>There are five stands of Japanese Knotweed with potential to spread into Ballyman Glen SAC.</p> <p>Potential degradation of habitat due to human disturbance.</p>	Landscaping design to close gaps at the boundary of the SAC and discourage visitors from entering.

Assessment of issues that could give rise to adverse effects:

(i) Degradation of habitat

The NIS acknowledges the potential for degradation of habitat as a result of surface water pollution caused by construction-related suspended solid run-off and soil disturbance extending overflow runoff impacts.

It also acknowledges the potential for degradation as a result of trampling from increased visitor pressure.

The proposed mitigations measures (section 5.2 of the NIS) can be summarised as:

- Rigorous sediment, erosion and pollution control measures will be implemented for the proposed works.
- Good practice measures for the prevention of pollution of groundwater and surface waters will be employed at all times during the construction and operational periods.
- Landscaping proposals include planting along the boundary of the SAC to discourage visitors from entering the SAC.

With the effective implementation of mitigation measures, the NIS concludes that no significant residual impact on the QIs as a result of degradation of surface waters or trampling from increased visitor pressure is anticipated.

I am satisfied that the preventative measures aimed at interrupting the source-pathway-receptor are targeted at the key threats to protected habitats, and that by arresting these pathways or reducing possible effects to a non-significant level, adverse effects can be prevented subject to further assessment of other issues.

(ii) Alteration of water quality

The NIS acknowledges the potential for the localised construction works involving the installation of infrastructure to have negative impacts on groundwater quality.

However, it outlines that construction of the landfill capping system will result in a reduction of leachate generation in the groundwater feeding the habitats.

The proposed mitigations measures (section 5.2 of the NIS) can be summarised as:

- Rigorous sediment, erosion and pollution control measures will be implemented for the proposed works.
- Good practice measures for the prevention of pollution of groundwater and surface waters will be employed at all times during the construction and operational periods.

With the effective implementation of mitigation measures and the reduction of leachate generation in groundwater as a result of the installation of a capping system, the NIS concludes that the overall residual impact on the quality of the groundwater feeding the habitats is anticipated to be positive.

I am satisfied that the preventative measures aimed at interrupting the source-pathway-receptor are targeted at the key threats to protected habitats, and that by arresting these pathways or reducing possible effects to a non-significant level, adverse effects can be prevented subject to further assessment of other issues.

(iii) Alteration of hydrological regime

The NIS acknowledges that the capping of the landfills is likely to reduce the current recharge to groundwater by up to 7% over the life of the development. However, it outlines that the potential drop of 0.3m at the top of the seepage face is located above the level of elevation of the QI habitats and, therefore, negative impacts on the QI habitats due to reduced groundwater flow contribution are predicted to be insignificant.

The proposed mitigations measures in the NIS can be summarised as:

- As per section 2.2 of the NIS, the project design already incorporates Sustainable Drainage Systems (SuDS) and principles, e.g. permeable surfaces, filter drains, swales, green areas and landscaping ponds.
- The storm water management design for the proposed housing and road development routes the storm water to soakaways to promote percolation back to ground.

Following the proposed mitigation measures, the NIS concludes that residual negative impacts on the QI habitats due to reduced groundwater flow contribution are not predicted to be significant.

The Department of Housing, Local Government and Heritage submission raises significant concerns about the impact of the development on the QIs of Ballyman Glen SAC, which can be summarised as follows:

- It must be demonstrated that the Petrifying Spring habitat in seepage zones will not be lost or deteriorate due to the drop in the elevation of the seepage face. A conservation objective target for this habitat is 'area stable or increasing subject to natural processes', therefore any permanent loss of petrifying spring habitat in these seepage zones would undermine the conservation objectives for the SAC and is significant. European Commission guidance advises that in order to preserve this habitat of very limited expanse in the field, it is essential to preserve its surroundings and the whole hydrological system concerned. A Conservation Objective target for this habitat is 'to maintain appropriate hydrological regimes' for the attribute 'height of water table'. Therefore, the proposed development would appear to undermine this conservation objective.
- The NIS states that the reduced recharge rate (by 7% in comparison to pre-development conditions) could lead to a comparable reduction in flow from the springs (7%). The NIS further states 'however, it is expected the springs would continue to flow and the tufa would continue to be deposited'. A Conservation Objective target for this habitat is 'to maintain appropriate hydrological regimes' for the attribute 'water flow'. The Conservation Objective notes state that 'water flows should not be altered anthropogenically'. Therefore, the proposed development would appear to undermine this conservation objective.
- As outlined in the site's conservation objectives, Alkaline Fen habitat is associated with an extensive seepage area down to the County Brook River. A Conservation Objective target for Alkaline Fens is to maintain, or where necessary restore, appropriate natural hydrological regimes necessary to support the natural structure and functioning of the habitat. The Department advises that it must be demonstrated that any reduction in flow from seepage areas will not undermine this habitat's conservation objective.

- The NIS outlines storm water management measures which conflict with the Storm Water Impact Assessment Report and clarification is required on soakaway capacity and climate change allowances. Concerns are also raised about proposals to provide an overflow from the soakaways to the ponds, which could mask problems with the functioning of the soakaways and lead to loss of groundwater recharge which is vital to the maintenance of the QI habitats. Alternative proposals are suggested.
- Trial hole results show intermittent occurrence of gravel deposits which may form preferential pathways for groundwater flow to the springs/seepages, and evidence is needed to show that this has been considered in the groundwater recharge maintenance measures.

I would concur with the concerns above and, accordingly, I am not satisfied that the proposed development would not: significantly alter the hydrological regime; undermine the conservation objectives to restore the QI habitats of the SAC to favourable condition; or adversely affect the integrity of Ballyman Glen SAC.

(iv) Introduction or spread of invasive species during construction

The NIS acknowledges that there five stands of Japanese Knotweed present and that the construction phase has the potential to spread Japanese Knotweed into Ballyman Glen SAC.

Mitigation is proposed in the form of a Japanese Knotweed Management Plan which adopts a methodology of excavation and burial within a cell membrane as the preferred option for treatment/management.

I am satisfied that the measures proposed can be implemented and supervised effectively and would be effective in preventing the spread of invasive species.

In-combination effects

Section 5.1.6 of the NIS considers cumulative and in-combination impacts based on a list of plans and projects outlined in Table 5-3. It concludes that no elements of the listed plans or projects are anticipated to act cumulatively or in-combination with the proposed development to have a significant effect upon Ballyman Glen SAC.

Given the significant passage of time since the making of the application, I acknowledge that an update of relevant plans and projects would be appropriate. However, in light of the more substantive concerns about the impact of the development 'alone', I do not propose to examine cumulative / in-combination effects in further detail.

Findings and conclusions

The applicant determined that following the implementation of mitigation measures and best practice, the construction and operation of the development alone, or in combination with other plans and projects, will not adversely affect the integrity of Ballyman Glen SAC.

Based on the information provided, I am not satisfied that adverse effects arising from aspects of the proposed development can be excluded for Ballyman Glen SAC. I am not satisfied that the proposed development would not significantly affect the hydrological

regime and, accordingly, significantly undermine the conservation objectives to restore the favourable conservation condition of the Qualifying Interests for Ballyman Glen SAC (Petrifying Springs with tufa formation; Alkaline Fen).

Reasonable scientific doubt

I consider that reasonable scientific doubt remains as to the absence of adverse effects.

Site Integrity

I am not satisfied that the proposed development will not affect the attainment of the Conservation Objectives of the Ballyman Glen SAC. Adverse effects on site integrity cannot be excluded on the basis of reasonable scientific doubt.

Appropriate Assessment Conclusion: Integrity Test

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Ballyman Glen SAC in view of the conservation objectives for the site, and that Appropriate Assessment under the provisions of S177V of the Planning and Development Act 2000 (as amended) was required.

Following an examination, analysis and evaluation of the NIS and all associated material submitted, and taking account observations received, including the submission from the Department of Housing, Local Government and Heritage, I am not satisfied that the proposed development individually, or in combination with other plans and projects, would not adversely affect the integrity of Ballyman Glen SAC in view of the site's conservation objectives. In such circumstances the Board is precluded from granting permission under the provisions of Article 6(3) of the Habitats Directive (92/43/EEC).

My conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- The effectiveness of mitigation measures proposed.
- The potential for significant effects on the hydrological regime of the development site and associated impacts on the Qualifying Interests of Ballyman Glen SAC (Petrifying Springs with tufa formation; Alkaline Fen).
- The potential to undermine the conservation objectives for Ballyman Glen SAC and to prevent or delay the restoration of favourable conservation condition for Petrifying Springs with tufa formation and Alkaline Fen.

Appendix 3 – Water Framework Directive Screening Determination

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	313314-22	Townland, address	Fassaroe and Monastery, Bray, Co. Wicklow
Description of project	8-year permission for demolition of an existing dwelling at Berryfield Lane, construction of 650 no. residential units (241 no. houses, 409 no. apartments), creche and associated site works.		
Brief site description, relevant to WFD Screening,	<p>There are no watercourses within the site boundaries. There are three watercourses in the vicinity of the site as follows:</p> <ul style="list-style-type: none"> • County Brook along the northern boundary. • Glencullen located approx. 0.61 km to the south. • Dargle located approx. 0.23 km to the east. <p>The County Brook River flows eastwards into the Dargle River, St. Georges Channel and the Irish Sea.</p> <p>The site is underlain by thick permeable subsoil and as a result the drainage density is low and there are very few field drains in the area and no ponds or tributaries to the County Brook.</p> <p>Emergences of springs and seepages are evident in the riparian zone along the County Brook. These springs feed the alkaline fen and tufa deposits. The spring flows which are relatively small coalesce downhill to form a more defined channel.</p>		
Proposed surface water details	<p>Surface water will be conveyed through a proposed surface water network including SuDS and will be attenuated / managed within areas of the site prior to final discharge at agreed Qbar greenfield run-off rates. The development will have 4 stormwater discharge locations;</p> <ol style="list-style-type: none"> 1. County Brook (EPA code 10C06) located to the North of the site. 2. Existing 750mm dia Storm Water Network located to the East of the site. 		

	<p>3. Existing 300mm dia Storm Water Network located to the West of the site</p> <p>4. Proposed Soakaway located to the west of the central area of the site.</p>
Proposed water supply source & available capacity	A review of the Uisce Eireann Capacity Register (Published December 2024) on 30/5/2025 indicated that potential capacity is available in Bray subject to 'Level of service' (LoS) improvement to meet 2033 population targets.
Proposed wastewater treatment system & available capacity, other issues	A review of the Uisce Eireann Capacity Register (Published December 2024) on 30/5/2025 indicated spare capacity available at the Shanganagh WWTP.
Others?	<p>A Flood Risk Assessment Report accompanies the application. The Stage 1 Flood Risk Identification concludes based on historic information and mapping data that the proposed development is located in Zone C (low probability of flooding) and is appropriate development. The Justification Test is not deemed necessary. The report outlines that the residual risk of pluvial flooding to the site will be addressed through the appropriate use of Sustainable Urban Drainage Systems (SuDS) proposed as part of the development.</p> <p>The Ballyman Glen SAC is within and directly adjacent to the application site. Other relevant European Sites are within the Irish Sea to the east (Bray Head SAC (2.7km), Rockabill to Dalkey Islands SAC (6.3km), and Dalkey Islands SPA (8.4km))</p> <p>There are 5 historic landfill locations within the site and it is proposed to carry out remediation works as part of the proposed development.</p>

Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River	Adjoining the northern boundary	County Brook – Identified as part of Dargle_030 (IE_EA_10D01 0250)	Good	Not at Risk	None	Yes - Existing groundwater flows and proposed surface water discharge point.
River	C. 0.61 km to the south	Glencullen_020 (IE_EA_10G02 0500)	Good	Not at Risk	None	No
River	C. 0.23 km to the east	Dargle_030 (IE_EA_10D01 0250)	Good	Not at Risk	None	Yes – As per the above, this waterbody includes the County Brook
Groundwater	Underlying	Enniskerry Gravels (IE_EA_G_038)	Good	Not at Risk	None	Yes – Via the overlying soil which mainly comprises thick permeable subsoil with low drainage density. Alluvial soils associated with the County Brook stream are to the north of the site. Also via proposed surface water soakaway.
Groundwater	Underlying	Wicklow (IE_EA_G_076)	Good	At Risk	Unknown, agriculture	

Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Site clearance / Construction	Dargle_030 (IE_EA_10 D010250)	Existing groundwater flows and proposed surface water discharge point.	Siltation, pH (Concrete), hydrocarbon spillages. Impact on groundwater hydrological regime which feeds this waterbody.	Standard construction practice CEMP. SuDs measures and storm water network design.	Yes. As outlined in sections 12, 13, and Appendix 2 of this report, I am not satisfied that proposed development would not significantly alter the hydrological regime.	Screened in.
2.	Site clearance / Construction	Enniskerry Gravels (IE_EA_G_038)	Via the overlying soil and proposed soakaway.	Siltation, pH (Concrete), hydrocarbon spillages. Impact on groundwater hydrological regime.	Standard construction practice CEMP. SuDs measures and storm water network design.	Yes. As outlined in sections 12, 13, and Appendix 2 of this report, I am not satisfied that proposed development would not significantly	Screened in.

						alter the hydrological regime.	
3.	Site clearance / Construction	Wicklow (IE_EA_G_076)	Via the overlying soil and proposed soakaway.	Siltation, pH (Concrete), hydrocarbon spillages. Impact on groundwater hydrological regime.	Standard construction practice CEMP. SuDs measures and storm water network design.	Yes. As outlined in sections 12, 13, and Appendix 2 of this report, I am not satisfied that proposed development would not significantly alter the hydrological regime.	Screened in.
OPERATIONAL PHASE							
1.	Surface water run-off	Dargle_030 (IE_EA_10 D010250)	Storm water will be discharged to the County Brook (part of the Dargle_030).	Hydrocarbon spillage / pollution, changes to run-off rate.	SUDs features and storm water management.	No	Screened out
2.	Discharges to ground	Enniskerry Gravels (IE_EA_G_038)	Proposed storm water soakaway and capping of landfill areas.	Changes to the hydrological regime.	SUDs features, storm water management.	Yes - As outlined in sections 12, 13, and Appendix 2 of this report, I am not satisfied that proposed development would not significantly alter the	Screened in

						hydrological regime.	
DECOMMISSIONING PHASE							
5.	N/A	N/A	N/A	N/A	N/A	N/A	N/A