



An
Bord
Pleanála

Inspector's Report

ABP-315076-22

Development	Demolition of three structures and the construction of a dwelling. (NIS lodged with the application.)
Location	Shelton Place, Seaview, Mornington, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	221162
Applicant(s)	Karl Cunningham
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Colin Blake
Observer(s)	Cllr. Stephen McKee Protect East Meath
Date of Site Inspection	9 th February 2024
Inspector	Ian Boyle

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Appendix 1

Forms 1: EIA Pre-Screening and Form 2: EIA Preliminary Examination

1.0 Site Location and Description

- 1.1. The appeal site is situated at Shelton Place, Seaview, Mornington, Co. Meath. It is near the east coast overlooking Mornington Beach, and the Irish Sea beyond. Bettystown and Drogheda town centres are roughly 2.5km and 7.5km to the south and west, respectively.
- 1.2. The site is vacant having formerly functioned as a small caravan park. It is enclosed by a steel fence and contains thick scrub, undergrowth, and some small trees. The property is accessed via a narrow laneway running off Golf Links Road which is to the south. The laneway is a narrow sand and gravel track and forms the eastern boundary of the site. There are three derelict structures on the property, which are proposed to be demolished.
- 1.3. The property is relatively flat and is adjoined to the north, south and west by existing residential housing. The land to the east, which sites between the site and beach, comprises a sparse cover of coastal grassland. This area, and that further along the Boyne River and Estuary, comprises the Boyne Coast and Estuary Special Area of Conservation (SAC). The SAC includes most of the tidal sections of the River Boyne, intertidal sandflats, mudflats, saltmarshes, grassland, and the stretch of coast from Bettystown to Termonfeckin, including the Mornington and Baltray sand dune systems.
- 1.4. The character of the surrounding area is peri-urban with housing mainly semi-detached and detached dwellings.
- 1.5. The site has a stated area of 0.18ha.

2.0 Proposed Development

- 2.1. The proposed development is for the demolition of three vacant and derelict structures and the construction of a detached dwelling, garage and new site entrance.
- 2.2. The proposed access is from the existing cul-de-sac laneway to the east of the site which runs alongside, but not within, the Boyne Coast and Estuary SAC.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision (NoD) to Grant Permission on 27th October 2022, subject to 14 no. conditions. Notable conditions include:

Condition 2: Drainage and attenuation requirements.

Condition 4: Construction and Environmental Management Plan (CEMP).

Condition 5: Mitigation measures set out in the Natura Impact Assessment (NIS) shall be implemented.

Condition 6: Mitigation measures set out in the Flood Risk Assessment shall be implemented.

Condition 11: Landscaping and boundary treatment requirements.

3.2. Planning Authority Reports

3.2.1. Planning Report

- This is the re-submission of a previous application (by different applicant) that was granted by Meath County Council (MCC) but subsequently refused by An Bord Pleanála for reasons relating to Appropriate Assessment.
- The site is zoned 'A1 - Residential'. Therefore, the principle of residential development is acceptable.
- There are no concerns regarding the size, scale and massing of the dwelling, means of access, surface water disposal and drainage, internal space standards, amenity space, or flooding, and the proposal is in keeping with the general character of the area.
- The Planning Authority's Stage 2 Appropriate Assessment (AA) has considered the potential effects including direct, indirect and in-combination effects of the proposed development, individually or in combination with the permitted developments and cumulatively with other plans or projects on European Sites. It is concluded that the proposed development by itself, or in combination with other plans and developments, subject to the mitigation

measures proposed in the NIS would not be likely to have a significant effect on European Sites.

- There is no real likelihood of significant effects on the environment and, as such, an EIAR is not required.
- In conclusion, the design and appearance of the proposal is acceptable and would not have a harmful impact on the visual or residential amenity of the surrounding area and, subject to implementing the mitigation measures outlined in the NIS, it is considered that the proposed development would not be likely to have a significant effect on European Sites.
- Therefore, the proposal is in accordance with the policies outlined in the Meath County Development Plan 2021-2027 and it is recommended permission be granted subject to conditions.

3.2.2. Other Technical Reports

Transportation Department: No objection, subject to standard conditions regarding sightlines.

Environment Section (Flooding): No objection, subject to conditions regarding drainage and implementation of mitigation measures included in the Flood Risk Assessment.

Water Services Department: No objection, subject to conditions regarding drainage and attenuation requirements. [Note: The Water Services Department provided a further response to the Board highlighting concerns regarding the capacity of the wastewater treatment system for the area. See Section 6.5 below].

3.3. Third Party Observations

The Planning Authority received 5 no. observations from third parties. The main concerns raised are in relation to:

- potential impacts on the adjacent European Sites, including the Boyne Coast and Estuary Special Area of Conservation SAC,
- potential for flood risk,
- application has not included an EIAR Screening Report,

- Impact on foul water drainage, and
- proposal would be out of keeping in terms of the existing character of the area.

4.0 Planning History

Subject Site

ABP Ref. ABP-308079-22 (Reg. Ref. LB191339): The Board **refused permission** for the demolition of existing structures and construction of 1½ storey dwelling & associated site works. [An NIS was lodged with planning application.]

The reason for refusal was that on the basis of the information provided with the application, appeal and Natura Impact Statement, and in light of the assessment carried out above, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on the integrity of the Boyne Estuary SPA (004080) and the Boyne Coast and Estuary SAC (001957), or any other European site, in view of the sites Conservation Objectives.

5.0 Policy Context

5.1. Meath County Development Plan 2021-2027

General

The Meath County Development Plan 2021-2027 ('Development Plan') was adopted on 22nd September, 2021 and came into effect on 3rd November, 2021.

Settlement Strategy

The settlement of 'Laytown/Bettystown/Mornington/Donacarney' is a Self-Sustaining Town as per the Settlement Hierarchy for the County.

These towns are recognised as having high levels of population growth and a weak employment base which are reliant on other areas for employment and/or services and require targeted 'catch up' investment to become more self-sustaining.

Zoning

The appeal site is zoned 'A1 - Existing Residential', which has the following objective:

'To protect and enhance the amenity and character of existing residential communities.'

Lands identified as 'Existing Residential' are established residential areas.

Development proposals on these lands primarily consist of infill developments and the extension and refurbishment of existing properties. The principle of such proposals is normally acceptable subject to the amenities of surrounding properties being protected and the use, scale, character and design of any development respecting the character of the area.

Residential is a permitted use.

Chapter 2: Core Strategy

- **CS OBJ 1:** To secure the implementation of the Core Strategy and Settlement Strategy, in so far as practicable, by directing growth towards designated settlements, subject to the availability of infrastructure and services.
- **CS OBJ 4:** To achieve more compact growth by promoting the development of infill and brownfield / regeneration sites and the redevelopment of underutilised land within and close to the existing built-up footprint of existing settlements in preference to edge of centre locations.
- **CS OBJ 5:** To deliver at least 30% of all new homes in urban areas within the existing built-up footprint of settlements.

Chapter 3: Settlement and Housing Strategy

'To facilitate the sustainable growth of the towns and villages throughout the County by promoting consolidation and compact development in an attractive setting that provides a suitable mix of housing and supporting amenities and ensuring co-ordinated investment in infrastructure that will support economic competitiveness and create a high quality living and working environment.'

Section 3.4.1.1: Compact Growth: There is an objective in the NPF and RSES that at least 30% of all new homes will be delivered within or close to the existing built-up areas of settlements. The Council acknowledges the social and economic benefits of more compact settlements therefore this Plan will continue to support the sequential approach to the delivery of housing with priority given to infill development and the regeneration of brownfield sites.

- **SH POL 2:** To promote the consolidation of existing settlements and the creation of compact urban forms through the utilisation of infill and brownfield lands in preference to edge of centre locations.
- **SH POL 3:** To support the creation of healthy and sustainable communities that encourages and facilitates walking and cycling and general physical activity through the implementation of best practices in urban design that promotes permeability and interconnecting spaces.
- **SH POL 9:** To promote higher residential densities in appropriate locations and in particular close to town centres and along public transport corridors, in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).
- **SH POL 12:** To promote innovation in architectural design that delivers buildings of a high-quality that positively contributes to the built environment and local streetscape.

Chapter 6: Infrastructure Strategy

- **INF POL 18** is to implement the “Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoEHLG/OPW, 2009) through the use of the sequential approach and application of Justification Tests for Development Management and Development Plans, during the period of this Plan.
- **INF POL 19** is to implement the findings and recommendations of the Strategic Flood Risk Assessment prepared in conjunction with the County Development Plan review, ensuring climate change is taken into account.
- **INF POL 20** states that a Flood Risk Assessment is carried out for any development proposal, where flood risk may be an issue in accordance with the “Planning System and Flood Risk Management – Guidelines for Planning

Authorities” (DoECLG/OPW, 2009). This assessment shall be appropriate to the scale and nature of risk to and from the potential development and shall consider the impact of climate change.

- **INF OBJ 20** is to implement the Planning System and Flood Risk Management-Guidelines for Planning Authorities (DoEHLG/OPW 2009) or any updated guidelines. A site-specific Flood Risk Assessment should be submitted where appropriate.
- **INF OBJ 21** is to restrict new development within floodplains other than development which satisfies the Justification Test, as outlined in the Planning System and Flood Risk Management Guidelines 2009 for Planning Authorities (or any updated guidelines).
- **INF OBJ 25** is to require the use of Sustainable Urban Drainage Systems (SuDS) to minimise and limit the extent of hard surfacing and paving and require the use of sustainable drainage techniques where appropriate, for new development or for extensions to existing developments, in order to reduce the potential impact of existing and predicted flooding risks.

Other Relevant Chapters

- Chapter 10: Climate Change Strategy
- Chapter 11: Development Management Standards and Land Use Zoning Objectives
- Appendix A3: Meath County Housing Strategy 2020-2026

5.2. The Planning System and Flood Risk Management; Guidelines for Planning Authorities 2009

These Guidelines for Planning Authorities, published by OPW and Department of Environment, Heritage and Local Government in 2009, address identification and assessment of flood risk, and flood risk management in design of development. The core objectives of the guidelines are as follows:

- Avoid inappropriate development in areas at risk of flooding,
- Avoid new developments increasing flood risk elsewhere,

- Ensure effective management of residual risks for development permitted in floodplains
- Avoid unnecessary restriction of national, regional or local economic and social growth
- Improve the understanding of flood risk among relevant stakeholders.

The Guidelines recommend a risk-based sequential approach to managing flood risk. They are:

- The key elements of this are to avoid development in areas at risk of flooding. If this is not possible, consider substituting a land use that is less vulnerable to flooding. Only when both avoidance and substitution cannot take place should consideration be given to mitigation and management of risks.
- Inappropriate types of development that would create unacceptable risks from flooding should not be planned for or permitted.
- Exceptions to the restriction of development due to potential flood risks are provided for through the use of a **Justification Test**, where the planning need and the sustainable management of flood risk to an acceptable level must be demonstrated.

Section 3.8 states that ‘the **Justification Test** has been designed to rigorously assess the appropriateness, or otherwise, of particular developments that, for the reasons outlined above, are being considered in areas of moderate or high flood risk. The Development Management Justification Test is relevant to this appeal. It is used in the planning application stage where it is intended to develop land at moderate or high risk of flooding for uses or development vulnerable to flooding that would generally be inappropriate for that land’.

Box 5.1 of the Guidelines sets out the considerations to be included in the Justification Test for development proposals and states that the following criteria must be satisfied.

Circular Letter PL 2/2014, Flooding Guidelines

On 13th August 2014 a Circular Letter PL 2/2014, Flooding Guidelines was issued from the Department of the Environment Community and Local Government with regard to:

- i. Use of OPW Flood Mapping in assessing planning applications, and
- ii. Clarifications of advice contained in the 2009 DECLG Guidelines for planning authorities – ‘The Planning System and Flood Risk Management’;

5.3. Other Relevant Policy

National Policy

- *Design Manual for Urban Roads and Streets, 2019 (‘DMURS’)*
- *Development Management Guidelines for Planning Authorities, 2007 (‘Development Management Guidelines’).*

Regional Policy

- *Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 (‘RSES’)*

Local Policy

- *Flood Risk Assessment and Management Plan for the Meath CDP 2020-2026, SFRA Report, December 2019 (‘FRA&MP’)*

5.4. Natural Heritage Designations

5.4.1. The subject site includes an access road which extends southwards from along the eastern side of the property until it meets Golf Links Road. The access road is proposed to be upgraded as part of the proposed development. The access road is adjacent the Boyne Coast and Estuary SAC (Site Code: 001957).

5.4.2. The following Designated Areas are also within 15km of the site:

- The Boyne Estuary SPA (Site Code 004080)
- The Boyne Coast and Estuary SAC (Site Code 001957)
- The River Boyne and River Blackwater SAC (Site Code 002299)

- River Nanny Estuary and Shore SPA (Site Code 004158)
- Clogherhead SAC (Site Code 001459)
- The River Boyne and River Blackwater SPA (Site Code 004232)

6.0 The Appeal

6.1. Grounds of Appeal

The third party Appellant raises the following main points:

- This is a repeat application. Therefore, the Planning Authority should have been precluded from granting permission for the proposed development.
- It is not possible to build on the subject site without adversely affecting the Boyne Estuary SPA (004080) and the Boyne Coast and Estuary SAC (001957). The proposal is a breach of the Habitats Directive.
- The site is within a Flood Zone.
- The conditions attached by MCC in their NoD to Grant Permission do not address the issues regarding Appropriate Assessment. There were conditions included in the previous decision to grant permission, but these have not been included in the recent Decision.
- The proposed access, via the upgraded laneway, runs through the SAC. The trimming back of hedges and other works would mean unwarranted and extensive removal of flora and fauna from an EU designated site. The development is, therefore, untenable due to its restricted access through an SAC.
- There are several Areas Requiring Consent (ARC's) which would be breached in terms of proposed works. This is a breach of the Habitat's Directive.
- The issue of wastewater disposal has not been properly assessed by the Planning Authority. The adjacent houses in Seaview are at the lowest part of the sewerage network, which has backed-up and overflowed into residential gardens in previous years. The development seeks to connect

into a system that is already stressed and no longer fit for purpose, and for which there is no separation of grey and foul water.

- The validity of the application is in question (landownership issue).
- An EIAR should have been prepared as part of the application.

6.2. Applicant Response

The Applicant provided an appeal response on 9th December 2022. The following main issues were raised:

- The previous concerns raised by the Inspector regarding insufficient details of potential impacts by construction related vehicles on the laneway and the SAC have been addressed under the current proposal.
- A Construction and Environmental Management Plan (CEMP) and NIS have been prepared which identifies potential risks and sets out comprehensive mitigation measures to ensure the protection of the SAC.
- The western side of the access road is not part of the designated site and does not contain any protected species. Its eastern side contains boulders which ensure traffic cannot encroach onto the protected area. In parts, the bank along the eastern side is higher than the access road.
- Having regard to the limited number of construction vehicles travelling to the site the existing access road is sufficient. Any disturbances would be minimal and temporary.
- The proposed mitigation measures set out in the NIS would ensure the protection of Natura 2000 habitats and species and all local non-designated ecological receptors for during both the construction and operational stages of the development.
- There was previous issue raised by the Inspector in relation to a misaligned boundary – i.e., the boundary shown on the architectural drawings and NIS did not match. The boundaries are now consistent between all reports and drawings and the NIS fully assesses the impact of the proposed development on the SAC.

- There would be no removal of hedgerow to facilitate the development. All that is required is minor trimming, which is a normal part of standard hedgerow maintenance.
- There would be no loss of flora or fauna and the Inspector previously confirmed they had no concerns re: visibility at the junction between the laneway and Golf Links Road.
- There would be no breach of Areas Requiring Consent under the Habitats Directive as there would be no loss of hedgerow or vegetation due to construction works.
- A comprehensive Site Specific Flood Risk Assessment (SSFRA) has been completed which confirms issues in respect of flooding were addressed under the previous application. No such concerns apply to the current development proposal. The risk of flooding is low and will not exacerbate flood levels onsite or on adjacent lands.
- The Planning Authority (Environmental Section) has no objections from a flooding perspective.
- The Applicant has engaged with Irish Water (Uisce Éireann) regarding wastewater disposal / treatment under the previous application. Uisce Éireann has stated no objection, subject to condition.
- Only one of four landowners has provided permission to the development to take place. However, the Applicant has provided letters of consent and has sufficient legal interest to carry out the development.
- The comments of the Appellant suggest a form of NIMBYism as there appears to be a sense of entitlement to the enjoyment of the area. This is unreasonable and unacceptable.
- The Appeal Response includes further supporting reports and assessments, including:
 - from an environmental consultant, which addresses flooding concerns,

- from an ecologist, which addresses the Habitats Directive and issues related to the NIS, Areas Requiring Consent, access and sightlines and removal of vegetation, and
- a Construction and Environmental Management Plan (CEMP).

6.3. Planning Authority Response

- The Appeal has been noted. All issues have been addressed by the Planner's Report.
- The Planning Authority requests that An Bord Pleanála uphold the decision of the Planning Authority to grant permission.

6.4. Observations

The Board has received two observations from Cllr. Stephen McKee and Protect East Meath.

The following main concerns have been raised:

Protect East Meath

- The NIS fails to address the previous reason for refusal issued by the Board on ABP Ref. 308079.
- The application materially contravenes INF POL 18, INF POL 19, INF OBJ 20 and INF OBJ 21 of the Development Plan as the site is within Flood Zones A and B. It is also contrary to the Meath Flood Risk Assessment and Flood Risk Guidelines.
- The Applicant has not provided the information required for EIA Screening and/or EIAR.

Cllr. Stephen McKee

- There are concerns the development would adversely impact the Boyne Coast and Estuary SAC and The Boyne Estuary SPA.
- The site is within a Flood Zone and granting permission would be contrary to the County Development Plan and Meath Flood Risk Assessment.

- There are local issues with wastewater and the proposed development would connect into an already overstretched system. The likelihood is that raw sewage would rise into gardens in the neighbouring residential estate (Seaview), which was happened in the past.

6.5. Further Responses

The Board has received further responses from the below parties. The main issues raised are as follows:

Water Services Section (Meath County Council)

- During storms the Non-Return Valve (NRV) could be operable for days due to high tides and high groundwater levels, meaning each additional dwelling in the area would produce effluent ending up in a third party's property.
- The Water Services caretaker has had to call in a tanker occasionally in the past to empty the network and remove overflow entering into the estate.
- Surface water runoff sometimes enters the foul sewer system as the existing drainage system is too shallow to accommodate some houses in the area.
- The stormwater storage on the application site may not work as it is on high ground and all of the housing estate would need to backup before the NRV becomes operational and attenuation properly works.
- The proposed connection to the UÉ network is proposed to be on a private section of sewer which may require adequate wayleaves from third parties. This may be difficult to obtain.

Development Applications Unit (NPWS)

- The NIS concludes that with the implementation of mitigation measures potential adverse effects on the SAC from the proposed development can be avoided and it is accepted that this should be the case.
- However, it is not certain that as the Applicant has only a right-of-way (ROW) over the access track that they have the legal capacity to fence off the SAC boundary as proposed.

- The cutting back of hawthorn within the SAC for sightlines may interfere with more than bush and this would result in removal of vegetation from the SAC.
- There is an apparent problem with the sewage system serving Seaview Park into which it is proposed to route the foul sewage from the proposed development.
- Sewage apparently overflows up through manholes meaning possible discharge would pollute the Mornington Stream, which is only 46m from the subject site, and which runs along the edge of the dunes in the SAC just north before entering the Boyne Estuary itself (c. 600m to the northwest).
- The stream therefore forms a hydrological pathway by which dunes, sandflats, mudflats, and other habitats could potentially be detrimentally affected by sewage pollution contributed to by the proposed development.
- The potential of adverse effects on the dunes and other Qualifying Interest (QI) habitats within the SAC is not covered by the NIS.

Protect East Meath

- The works intended for entire track within the redline are not specified. Therefore, the NIS is incomplete since works within / adjacent the SAC have been included in it.
- The habitat in this location of the SAC is identified as fixed dunes with herbaceous vegetation ('grey dunes') (2130) which is a priority habitat. This is not identified by the NIS.
- The NIS does not reference the Boyne Coast and Estuary SAC coastal supporting document (NPWS, 2012), which is a serious gap in the NIS.
- The Applicant states that the access track is not within the SAC. However, the Inspector for the previous found different and that there were obstructions on the west side of the lane which would require construction vehicles to encroach beyond the land and into the SAC.
- The swept path analysis shows turning trucks will encroach beyond the red line and into the SAC. The analysis is also flawed as it does not assess the maximum vehicle size which could be used to access the site. The

Applicant has not control over what type of vehicles could be used by contractors, which could use articulated vehicles.

- It is not clear where the proposed geotextile fence will be positioned or if it will be within the SAC. If it outside the SAC, then no account is provided of the consequential narrowing of the access track. If inside the SAC, then no impact of the fence has been assessed.
- The site notice and description of the development do not reference the erection of the fence, which is mandatory (despite the fence would be temporary).
- The purpose of the fence is to prevent soil and dust movements and would not be adequate to prevent vehicle encroachment. It would therefore be an ineffective mitigation measure.
- The Planning Authority has failed to comply with section 28(1)(n) of the Planning and Development Regulations, 2001, which means their Decision is invalid and the Board cannot carry out a lawful appropriate assessment in the absence of this information. The Board therefore lacks jurisdiction to grant permission and the application must be refused. [Section 28(1)(n) is in relation to notice to certain bodies.]

Colin Blake

- There is unregulated activity within the SAC which is having a negative impact and would be made worse by the proposed development.
- No consultation has taken place with the NPWS – who were unaware of the intention to bring construction traffic through the SAC as part of the proposed development.
- The revised NIS submitted to the Board has prevented the public from making observations on it.
- The Meath CDP has serious flaws and is awaiting review in the High Court.
- The NIS is incorrect in saying the access lane is not within the SAC.

- The track is only 2m in width and would not be able to accommodate vans, trucks or mobile cranes without encroaching into the SAC. There is also no turning area.
- The removal of hedgerow to achieve the required sightlines would remove maram grass required to fix the dunes in place.
- The swept path analysis is flawed as it is based on a dated standard and uses a small vehicle only in the illustrations.
- The SAC cannot take any more human interaction and this is supported by correspondence from government officials, NPWS, An Taisce and local representatives (appendices provided).
- The Hydrocare Report does not address foul water concerns, only flooding.
- There is no capacity in the surface or wastewater infrastructure for the area. The system is completely full due to rain and sewage and surcharges into Seaview Estate, often several times a month (appendices and photographs provided).
- The Applicant does not have consent from Uisce Éireann, or the Council, to connect into the public wastewater system, which is antiquated and no longer fit-for-purpose.

7.0 Assessment

Background

The proposed development is for construction of a detached dwelling, garage, site access and ancillary works. A similar application for a house was made on the site in October 2019.

On appeal, the Board decided to refuse permission for a reason relating to Appropriate Assessment (ABP Ref. 308079-22 refers). The reason was that the Board could not be satisfied that the proposed development would not be likely to have a significant effect on the integrity of the Boyne Estuary SPA (004080) and the Boyne Coast and Estuary SAC (001957), or any other European site, in view of the sites' Conservation Objectives.

The current proposal is therefore a 'repeat application' in that it is also for a new dwelling, albeit it seeks to address the previous concerns and reason for refusal issued by the Board.

Planning Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Wastewater
- Flood Risk
- Environmental Impact Assessment (Screening)
- Appropriate Assessment
- Other Issues

7.1. Wastewater

- 7.1.1. A key issue in relation to this appeal is wastewater disposal. I note that the proposed development intends to link into the public sewer system via a new connection. A concern has been raised by the Appellant that the existing public system is operating above capacity and the likelihood is raw sewage would rise up in the adjoining residential properties at Seaview, which is directly west of the appeal site. It is further stated by third parties that this has occurred in the past, and continues to regularly do so, particularly during heavy rainfall events and wintertime.
- 7.1.2. Whilst I note there is no report is on file from Uisce Éireann (UÉ) for the current application, the matter was assessed under a previous application – which was also for a single dwelling of similar size (ABP Ref. 308079-22, Reg. Ref. 22/1162). In that case, UÉ provided two reports which are dated the 8th November 2019 and 28th July 2020, respectively.
- 7.1.3. The first report found that insufficient information had been provided in the application to allow UÉ to make a determination. Further information was

recommended in relation to water supply, wastewater disposal and the wayleave agreement regarding the existing foul sewer along the western boundary of the site.

7.1.4. The second report confirmed that the Applicant had engaged with UÉ and submitted a pre-connection enquiry. Uisce Éireann confirmed the following:

- Wastewater Connection: a pump station may be required to be installed on site as a gravity connection is not confirmed.
- Water connection: a 15m watermain extension is required to connect to the proposed development.
- Wastewater: a 160m foul sewer extension is required to connect the proposed development to the Irish Water wastewater network.
- The applicant shall agree a 6m wide wayleave to facilitate access to the 150mm foul sewer running along the western boundary of the site.

Subject to the above, Uisce Éireann had no objection and recommended a grant of permission.

7.1.5. Notwithstanding this, it is clear to me that there is an ongoing issue with wastewater disposal in the area. Several third parties have raised concerns in that the existing network is already operating well above capacity and is no longer fit for purpose. A submission regarding the specific issue of wastewater collection and treatment has also been received by the Board from the Council's Water Services Section (dated 13th January 2023).

7.1.6. This submission raises several concerns from a wastewater perspective, including confirmation that during heavy rainfall foul effluent can, on occasional, rise to the surface on third party lands, and is likely to continue to do so into the future given the condition of the existing sewer network. This is despite the recent installation of a Non-Return Valve (NRV) to try and address the issue and to prevent backflow up through the system. The Council's submission states that each additional dwelling in this area would exacerbate the problem, and that the contentions made by the Appellant are not without substance. The Council's water services caretaker has apparently had to call in mobile tankers to empty the network in the area to prevent overflow entering the adjoining residential estate. The availability of capacity within

the network is, therefore, a significant issue from an environmental and public health perspective in terms of assessing this appeal case.

- 7.1.7. I note that as this was a matter examined as part of the previous application on the site – and one that the Applicant would likely have been aware of – the option of engaging with Uisce Éireann at an early stage in the planning process could have been availed of. In this regard, the general advice from UÉ is to contact them and to make a Pre-Connection Enquiry as early as possible in the project. This is so that initial contact can be established – before an application for planning permission has been made to the relevant Planning Authority. This would have allowed the Applicant to obtain a Confirmation of Feasibility (CoF) from UÉ, which could then have been submitted as part of the application. The Applicant chose to not pursue this approach and, as part of their current appeal, has relied upon older correspondence relating to a different planning application.
- 7.1.8. While I acknowledge that the previous submission from UÉ indicated no objection to the construction of a house on the site, subject to conditions, I note some time has passed since then and that it is quite possible the situation has evolved, or deteriorated, perhaps even significantly so. I therefore consider that it would not be sufficient, or good practice, to rely on this older correspondence, which dates back several years (to c. 2019/2020), particularly as one of the main concerns raised by the parties is regarding adequate wastewater disposal and an alleged capacity deficit in the foul water network.
- 7.1.9. Furthermore, I have reviewed the plans and particulars accompanying the application and note that any connection to the UÉ mains network may necessitate crossing third party lands and utilising a section of private sewer (drwg. no. PP-02 refers.). Such diversion works, and agreements over wayleaves, can potentially be addressed by condition, or as part of future consultations with UÉ and/or other landowners. However, in this case, the lack of a clear and unambiguous means of connecting to the public network – which appears to be oversubscribed, at any rate – adds a further degree of complication and concern, in my opinion. The Council's Water Services Section also identified this as a potential problem as part of their submission to the Board. The submission states that the proposed connection to the foul mains network is via a private section of sewer, which may require a wayleave

across private lands, and that such an agreement could be difficult to obtain in this particular scenario.

- 7.1.10. The Board may choose the option of seeking further information from the Applicant in relation to the issue of wastewater disposal to allow them the opportunity to potentially engage directly with Uisce Éireann and obtain any required consents prior to making a Decision. However, having regard to the above and, in particular, the submission by Council's Water Services Section, it is my opinion that the proposal should be refused permission and the making of a new application would be the better alternative.

7.2. Flood Risk

- 7.2.1. Section 6.10.2 of the County Development Plan is in relation to Flood Risk Management. There are several policies and objectives contained within this section of the CDP which seek to address, prevent and avoid flooding. These are included under Section 5.1 of my report above and generally seek to control flood risk to property through the planning system and adherence to the 'Flood Risk Management Guidelines for Planning Authorities, 2009'.
- 7.2.2. I have also referred to the Council's Flood Risk Assessment and Management Plan for the Meath CDP 2020-2026, SFRA Report, December 2019 ('FRA&MP'). The FRA&MP states that flood risk is principally focussed in Bettystown and Mornington East. The 'Northlands Estate Scheme' and the 'Mornington District Surface Water and Flood Protection Scheme' protect a significant amount of property from the impacts of coastal/fluviial flooding, but residual risk remains. The FRA&MP states that Mornington is at low risk (of flooding) and land use zoning objectives for the area are appropriate. In this regard, I note that the site is zoned 'existing residential' where the principle of residential development is normally acceptable, subject to the amenities of surrounding properties being protected and the use, scale, character and design of any new development respecting the character of the area.
- 7.2.3. I have inspected the OPW CFRAMS flood extent maps available for the area and note that the development is within a flood risk area. The application includes a Site Specific Flood Risk Assessment (SSFRA) and was referred to the Council's Environment Section, who had no objection. The SSFRA confirms that the site is

approximately 550m west from the coast and 300m southwest from the River Boyne Estuary. The site is described as relatively flat with a slight gradual fall from southeast to northwest in the direction of the estuary and a nearby channel which flows into the estuary near Burrow Point.

7.2.4. As the site is partially within Flood Zones A and B, Section 5.0 of the SSFRA includes a Justification Test. It responds to the requirements of Box 5.1 of the Guidelines by stating the following:

- The site is zoned for residential development area and in an existing urban environment. The proposal is for a one-off dwelling house, garage and associated site works on an infill site.
- The runoff generated by the proposed development would be drained via soakaways. This will ensure that the surface water runoff from all impermeable surfaces will infiltrate to the ground, and it will not offset storm waters elsewhere or exacerbate flooding in other locations. The stormwater drainage system is entirely located within Flood Zone C. This development relates to an infill site at the limit of the flood extents where the potential risk to other properties is considered low, and justified, considering its urban and zoned location.
- Flood Risk will not be increased to people as the proposed dwelling is predicted to have an FFL set 1m above the 0.1% AEP tidal flood event. This will ensure that occupants of the proposed dwelling house will likely be protected in the extreme flood events. Flood Risk will be minimised to the property as all new structures will be situated 1m above the predicted 0.1% AEP tidal flood water level. The use of flood resilient construction materials and methods are recommended to account for any potential exceedance flood events which may rise above the FFL. Flood Risk will be minimised to the environment and access and egress can be maintained via the laneway up to, and including, the 0.1% AEP tidal flood event. No new public infrastructure work is required to protect this proposed development.
- The access road to the proposed development site is not indicated as being inside either the 0.5% AEP or 0.1% AEP tidal flood event. It is therefore considered to be in Flood Zone C.

- Setting the FFL of the dwelling house to 4.22m AOD will not likely cause any negative impact on the streetscape. The FFL is set 150mm above the road at the proposed site entrance. It is also 370mm above the FFL of the dwelling house to the south and 590mm above the house to the north.

7.2.5. I consider that these measures will reduce risk to people, property, the economy and environment, as much as is practically possible.

7.2.6. Section 6.1 of the Flood Risk Assessment sets out a series of mitigation measures, which are standard in such a context, in my opinion. They include the following:

- FFL of the proposed dwelling house to be set at or above 4.22mAOD, 550mm above the CFRAM 0.5% MRFS (mid-range future scenario) predicted flood water level of 3.67mAOD.
- Manholes sealed to prevent flood water ingress.
- Non-Return Valve on Foul Sewer Line to prevent back flow surcharging.
- Water-compatible materials for flooring and walls are recommended (for example, tiling or concrete floors).
- A 220sqm area will be lowered by 3.17mAOD in the garden which will provide onsite storage for any displaced flood waters.

7.2.7. On review of the SSFRA, I consider that the Applicant has sufficiently addressed each of the requirements of the Justification Test – this is in spite of a Justification Test not being a formal requirement. In this regard, I note that LG Circular PL2/2014, which is in relation to the assessment of minor proposals in areas of flood risk, states that ‘applications for minor development, such as small-scale infill ... are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances. Since such applications concern existing buildings, or developed areas, the sequential approach cannot be used to locate them in lower-risk areas and the Justification Test will not apply’. I note the Applicant choose to complete a SSFRA in the interests of precautionary principle and to eliminate flood risk as a concern.

7.2.8. In summary, I consider that the proposal is in accordance with INF POL 18 of the Development Plan, which is to implement the Flood Risk Guidelines through the

sequential approach and application of the justification test for development management purposes. It is consistent with INF POL 20 which requires a Flood Risk Assessment to be completed in accordance with the Flood Risk Guidelines, where flood risk may be an issue. The application is also in accordance with INF POL 19 and INF OBJ 21 of the Development Plan, respectively, in my opinion, as it complies with the Council's Strategic Flood Risk Assessment, and the SSFRA completed by the Applicant includes a full Justification Test, as described in the Flood Risk Guidelines.

- 7.2.9. I conclude that the Applicant has demonstrated that the risk of flooding is low. The proposal would not exacerbate flooding on the site, or within the surrounding area, and appropriate mitigation measures have been included as part of the overall development proposal.

7.3. Environmental Impact Assessment (Screening)

- 7.3.1. The issue of Environmental Impact Assessment is raised in the grounds of appeal and also by a third party observer.
- 7.3.2. Having regard to the limited nature and small scale of the proposed development, which is for the demolition of three existing, vacant structures and construction of a single dwelling, and the absence of any significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development.
- 7.3.3. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.
- 7.3.4. [Please refer to Appendix 1 for further details.]

7.4. Appropriate Assessment

Compliance with Article 6(3) of the Habitats Directive

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

- 7.4.2. The NIS reviews the potential impacts on the subject site and its surrounding area; and suggests mitigation measures, assesses in-combination effects with other plans and projects, and identifies any residual effects on the European sites and their conservation objectives. The report was prepared in line with current best practice guidance, provides a description of the proposed development and identifies European Sites within the possible zone of influence of the proposed development. It is accompanied by several other supporting reports and assessments, including a Design Statement, Utilities Report (wastewater, surface water and watermain details), Infrastructure Design Report, Transportation Assessment, Site Specific Flood Risk Assessment (SSFRA), Construction and Environmental Management Plan (CEMP) and Landscape Strategy.
- 7.4.3. The NIS assesses the potential for significant effects by the proposed development on Natura 2000 sites in the context of the specific qualifying features and conservation objectives pertaining to such sites. It also assesses the potential for in-combination effects with other plans and projects.
- 7.4.4. Having reviewed the NIS and the supporting documentation, including appendices, I am satisfied that it provides adequate information in respect of baseline conditions, clearly identifies potential impacts, and uses best scientific information and knowledge. I am also satisfied that the information is sufficient to allow for appropriate assessment of the proposed development.

Background

- 7.4.5. The application is accompanied by a Natura Impact Statement Report (NIS) completed by Whitehill Environmental (dated May 2022). The NIS seeks to address the reason for refusal set out in the Board Order on a previous proposal for the construction of a dwelling on the appeal site (ABP Ref. ABP-308079-20 refers).
- 7.4.6. The reason for refusal was that on the basis of the information provided with the application, appeal and Natura Impact Statement, and in light of the assessment carried out above, the Board could not be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on the integrity of the Boyne Estuary SPA (004080) and the Boyne Coast and Estuary SAC (001957), or any other European site, in view of the sites Conservation Objectives.

- 7.4.7. This section of my report should be read in conjunction with the Memorandum Report, completed by the Board's Marine Ecologist (dated 29th February 2024).

Brief Description of the Proposal

Proposed Development

- 7.4.8. The NIS provides a description of the project under Section 3.2, which includes the main elements proposed, a description of the surface water management system, foul effluent proposal and a summary of the SSFRA.
- 7.4.9. In summary, the development proposed is for the demolition of three vacant and derelict structures on the site and the construction of a detached dwelling, garage and new site entrance. The proposed access is from the existing cul-de-sac laneway to the east of the site.
- 7.4.10. Figure 1 of the NIS is an extract from the Proposed Site Layout and shows the area where the proposed dwelling would be constructed.

Site Description

- 7.4.11. The subject site is described above under Section 1.0 of my report. The NIS (Section 3.2) also provides information on the location of the site and its surrounding environment. It confirms that the habitats within the site are not considered to be of high biodiversity value. There are also no habitats within the site which are suitable for feeding by bird species using the estuarine habitats of the Boyne Estuary.
- 7.4.12. The main land use in the area surrounding the site is residential and there are many residential estates and the associated amenities in the lands surrounding the site. The dominant habitats associated with these areas include buildings and artificial surfaces, amenity grasslands and gardens, and scattered trees and shrubs.
- 7.4.13. In areas further west of the site and in the rural areas, agriculture is the main land use. The dominant habitats associated here include improved agricultural grasslands and tillage lands. To the east of the site, the coastal habitats of the Boyne Estuary and the Irish Sea are dominant. These habitats include mud flats, sand flats, marshes, coastal grasslands and sand dunes and other habitats present locally include grasslands, as well as open water habitats. hedgerows, treelines and scattered trees.

7.4.14. The NIS includes site location maps in Figures 2 and 3. An aerial photograph is shown in Figure 4. The information is consistent with the other plans and particulars submitted with the application.

Stage 1 (Screening)

7.4.15. The NIS (Section 3.3) identifies 6 European sites within the Zol of the proposed development project; 3 no. SAC's and 3 no. SPA's. The sites are identified in Table 2 of the NIS. I note that the closest designated sites are the Boyne Coast and Estuary SAC (Side Code: 001957) and the Boyne Estuary SPA (Site Code: 004080).

7.4.16. The Boyne Coast and Estuary SAC is directly adjacent the appeal site on its eastern side, against the access track, whilst the Boyne Estuary SPA is roughly 200m to the north and northeast. A full list of the nearest European sites, including their distance and direction from the appeal site, is also included in Table 7.1 of my report below.

7.4.17. The Applicant has carried out Screening for Appropriate Assessment under Section 5 of their NIS for each of these sites. They have considered the potential impacts and effects of the proposed development on the habitats listed as qualifying interests for the European Sites identified. This is having regard to the nature and scale of the development (construction of a house), their location relative to the site and potential for ecological or landscape connectivity. The site, and its physical relationship, with the River Boyne and Blackwater SAC and SPA designated sites is shown in Figure 5 of the NIS. Figure 6 provides an aerial image of the site (outlined in blue) in relation to the River Boyne and Blackwater SAC (hatched in red).

7.4.18. The NIS screens out 4 of the 6 European Sites. This is on the basis there would be no significant adverse effects due to distance from the site, intervening lands, lack of any potential pathways or ecological connections, and absence of connectivity via surface water features, drainage ditches, or other vectors. Measures intended to reduce or avoid significant effects have not been considered in the screening process. However, the Boyne Coast and Estuary SAC and the Boyne Estuary SPA cannot be excluded and have been screened in for further analysis (i.e., Stage 2 Appropriate Assessment).

7.4.19. The NIS also notes that although Natural Heritage Areas (NHAs) are not part of the Natura 2000 network, they can provide important context in identifying mammal, bird, or invertebrate species traversing SAC and SPA sites and into adjacent habitats.

The proposed house site is within the Boyne Coast and Estuary pNHA (Site Code: 001957) and the access track is fully within it. Figure 7 of the NIS shows the site (outlined in red) in relation to the Boyne Estuary and Coast pNHA (blue hatching).

Table 7.1: AA Screening Summary Matrix

Site Code	European Site	Approx. Distance / Source-Pathway Receptor	Summary of possible effects alone	In-combination effects	Screening Conclusion
SAC Sites					
001957	The Boyne Coast and Estuary	Adjacent (east)	Having regards to the proximity of the site to the SAC, potential impacts are likely and will be assessed further. Effects could include habitat loss and fragmentation.	No possibility of in-combination effects.	Possible significant effects cannot be ruled out without further analysis and assessment, including the application of mitigation measures. Appropriate Assessment required.
002299	The River Boyne and River Blackwater	3.5km west	The application site is in a separate catchment to this SAC so impacts can be ruled out.	No possibility of in-combination effects.	Screened out for Appropriate Assessment.
001459	Clogher Head	7.6km north	Potential impacts upon the terrestrial habitats within this SAC can be ruled out due to distance and lack of connectivity.	No possibility of in-combination effects.	Screened out for Appropriate Assessment.

SPA Sites					
004080	The Boyne Estuary SPA	200m north and northeast	Having regards to the proximity of the site to the SPA, potential impacts will be assessed further. Effects could include disturbance to the SPA bird species due to noise and visual stimuli	No possibility of in-combination effects.	Possible significant effects cannot be ruled out without further analysis and assessment, including the application of mitigation measures. Appropriate Assessment required.
004158	River Nanny Estuary and Shore SPA	3.7km south	Having regards to the separation distance between the application site and this SPA, significant effects can be ruled out.	No possibility of in-combination effects.	Screened out for Appropriate Assessment.
004232	The River Boyne and River Blackwater	9.5km west	The application site is in a separate catchment to this SPA so impacts can be ruled out.	No possibility of in-combination effects.	Screened out for Appropriate Assessment.

Stage 2 (Natura Impact Statement)

Introduction

7.4.20. As noted above, the Boyne Coast and Estuary SAC (Site Code: 001957) is situated directly east of the site and the Boyne Estuary SPA (Site Code: 004080) is roughly 200m to the northeast at its closest point. The Qualifying Interests for each site is set out under Table 7.2 below.

Test of Likely Effects and Mitigation Measures

7.4.21. Taking account of the characteristics of the proposed development, including its location and proposed scale of works, the following issues are considered relevant in terms of assessing the likely significant impacts on the identified European sites:

1. Deterioration of water quality in designated areas arising from pollution from surface water run-off during site preparation and construction.
2. Deterioration in water quality in designated areas arising from pollution during the operation of the proposed development.
3. Loss of habitats in designated sites arising from any widening of the access road towards the dune habitats to the east, along with the inappropriate disposal of construction waste or soil.
4. Effects upon the bird species of the SPA arising from ex-site habitat loss, visual disturbance and increase in noise.
5. Cumulative impacts with other proposed/existing developments.

[I have also considered the detailed description of the above potential direct and indirect impacts as set out under Section 4.3 of the NIS.]

7.4.22. The NIS includes measures to mitigate potential negative impacts on the European Sites. Section 5 states that implementation of these site specific mitigation measures will ensure the protection of Natura 2000 habitats and species, and the local non-designated ecological receptors. The main parties responsible for the implementation of these measures include the applicant, project manager and construction contractors. These measures will also contribute towards the protection of the pNHA.

7.4.23. The measures, which are set out over Pages 40 – 43 of the NIS, are extensive and can be summarised as follows:

- Site preparation and construction to be confined to the application site only and to adhere to all standard best practice measures.
- Prior to the commencement of developments on site, the site engineer and the contractors should be made aware of the ecological sensitivity of the site and its connection to the European site. They must be made familiar with the mitigation measures outlined in this NIS and if possible, a statement signed by them acknowledging these mitigation measures should be presented to the Local Authority along with the Notice of Commencement.
- It is recommended that the mitigation measures be incorporated into a Construction and Environmental Management Plan for the site.
- Prior to the commencement of construction works it is recommended that a geotextile fence to be erected along the eastern perimeter of the track to ensure that construction traffic does not encroach into the SAC.
- The main construction works should be avoided during the wintering bird season (October – March).
- In order to achieve sight lines, the hawthorn bush at the top of the road (within the SAC boundary) will have to be trimmed back. This trimming should be done outside of the bird nesting season (March – October).
- Controls of erosion, sediment generation and other pollutants associated with the construction process should be implemented to prevent run off from the site towards the fixed dune habitats.
- All construction waste must be removed from site by a registered contractor to a registered site.
- Best practice concrete / aggregate management measures should be employed on site.
- Adherence to strict hydrocarbon and fluid management practices.

- During operation only low intensity lighting should be used on the development. This will reduce the impact of any new lighting scheme on local bat populations.
- Bare soil should be seeded as soon as possible with grass seed. This will minimise erosion into local drains and watercourses. Non-native wildflower mixes should be avoided in a sensitive area such as this, as they can alter the genetic balance of the existing flora.
- Landscaping should involve the planting of native Irish species that are indigenous to the site. The characteristics of newly planted hedgerows should mimic those in the surrounding area.

In-Combination Effects

7.4.24. The NIS (Page 37) addresses the potential for 'in combination impacts'. It states that the proposed development site is situated within the Boyne catchment. Therefore, any national, regional or local land use plans, along with any existing or proposed projects, further upstream in the catchment, or in the same groundwater body, have the potential to affect water quality in the Boyne catchment and the above-cited European sites.

7.4.25. Any plan or existing/proposed project that could potentially affect the Natura 2000 sites in-combination with the proposed development must adhere to the overarching environmental protective policies and objectives of the County Development Plan. The NIS references several policies and objectives taken from the Meath County Development Plan 2021-2027 and I note that these are summarised under Table 15 (of the NIS).

7.4.26. I note also that the online planning authority planning search function was used by the Applicant to ascertain if there are any developments within the vicinity of the site which could act in-combination, with the subject development, to give rise to cumulative impacts. The search identified that the majority of developments are small in scale, such as small domestic extensions and related works. A larger project of note within the vicinity of the appeal site included that permitted under Reg. Ref. 191720. This is for the construction of 62 dwellings at Donacarney Great, Mornington & Betaghstown, Civil Parish Of Colp, Bettystown, Co. Meath. The application was accompanied by an NIS.

Conclusion of NIS

- 7.4.27. The NIS concludes that there would be no significant effects on the integrity of the designated sites, and states that the mitigation measures outlined in the report, if fully implemented, would be sufficient to prevent any impacts on the qualifying interests of the identified European Site. It is considered that there would be no adverse effects on the integrity of the Natura 2000 network as a result of the proposed development for this reason.
- 7.4.28. Having reviewed the NIS and supporting documentation, I am satisfied that the information allows for a complete assessment of any adverse effects of the proposed development on the conservation objectives of the abovementioned European sites alone, or in combination with other plans or projects.

Appropriate Assessment of implications of the proposed development

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

Potential Impact on identified European Site(s) at risk of effects

- 7.4.30. The Boyne Coast and Estuary SAC (Site Code: 001957) and Boyne Estuary SPA (Site Code: 004080) are subject to Appropriate Assessment and referenced in Table 7.2 below. A description of each site and its Qualifying Interests (QI's) is also summarised.
- 7.4.31. I have examined the relevant Natura 2000 data forms and Conservation Objectives for these sites, which are available on the NPWS website. The relevant NPWS Site Documents have also been reviewed as part of my analysis.
- 7.4.32. The conservation objectives for each European Site for the purposes of Appropriate Assessment (i.e., Stage 2) can be summarised as follows:
- To restore / maintain the favourable conservation condition of the habitats and species listed as qualifying interests for the Boyne Coast and Estuary

SAC and the Boyne Estuary SPA, which are defined by a specific list of attributes and targets.¹

- 7.4.33. In this regard, I note the comments made by the Board's Marine Ecologist which states that the site is immediately adjacent – but outside – the Boyne Coast and Estuary SAC. The main qualifying interest of note in this part of the SAC is fixed dune habitat (Fixed coastal dunes with herbaceous vegetation ('grey dunes', 2130) which is a priority habitat.
- 7.4.34. I note that the fixed dune habitat is in unfavourable condition. It has a 'restore' objective (NPWS, 2012) and the NPWS publication 'Conservation objectives supporting document – coastal habitats' (2012) notes that this attribute is affected negatively by human induced erosion due to recreational activities and other anthropogenic factors. The document notes that the target for the 'vegetation structure: bare ground' attribute is not being met at Mornington with the area of bare sand exceeding the 'up to 10% bare sand' target (allowing for natural processes).
- 7.4.35. The images presented in the information supplied by the appellant show the pressure the site is under, including a burnt-out car, submerged car, bare areas of dune, etc. I also observed certain other pressures on the site during my physical inspection of the site due to human activity. There is correspondence attached to the third party appeal which suggests efforts are being made to address and reduce human-induced impacts on the protected area through various parties. However, notwithstanding this, I note that the existing access laneway is not situated within the SAC itself. It runs alongside the western wide of the SAC boundary and this clearly shown to be the case on the relevant NPWS mapping. This is corroborated by the research undertaken by the Board's Ecologist where it is stated in his report 'in my opinion the key thing to consider is the risk of construction vehicles extending beyond the boundary of the laneway into the SAC'.
- 7.4.36. The ecologist report also states that implementing the planning conditions set out under the Council's NoD, and adherence to the mitigation measures set out in the NIS and CEMP, would ensure this risk would be sufficiently minimised so as to avoid any adverse effects on the integrity of the SAC and SPA by the development

¹ The full reports for the conservation objectives for the listed SACs and SPAs are available on the NPWS website. I have examined these as part of my assessment and confirm I have had particular regard to the conservation objectives seeking to restore the favourable conservation condition of Qualifying Interests.

proposal. This includes *inter alia* training the site engineer and contractors with regards to the proximity and ecological sensitivity of the SAC, erecting a geotextile fence alongside the boundary of the SAC (which would act as a light-weight physical barrier and deterrent for vehicles at risk of crossing into the designated site), and that all construction deliveries should be met by an onsite representative / foreman to ensure any machinery, plant or deliveries entering and exiting the site and laneway must avoid any contact or intrusion into the SAC.

7.4.37. I note that further mitigation measures are set out as part of the NIS to avoid any reduction in water quality in the area and with a view to protecting certain designated sites and species. Specific measures have been also recommended to help protect the local biodiversity of the surrounding area and ensure the protection of wildlife. These measures are summarised under Section 7.4 of my report above and include confining construction works to the site and avoiding any entry into the SAC, avoidance of works during the wintering bird season, trimming of vegetation outside the bird nesting season, control of erosion sediment generation and prevention of pollutant runoff in the direction of the fixed dune habitats, amongst others.

7.4.38. A further consideration is in relation to potential environmental impacts and effects on the nearby European Sites, being the Boyne Coast and Estuary SAC and Boyne Estuary SPA. I consider that foul water overflow would have the potential to release waterborne pollutants into the Mornington Stream, which is roughly 40m to the northwest of the subject site. The stream runs along the edge of the SAC before discharging into the Boyne Estuary itself (c. 600m away). Therefore, the stream may act as a hydrological pathway by which dunes, sandflats, mudflats, and other sensitive habitats, could be detrimentally affected by sewage pollution; and to which the proposed development would potentially add to.

7.4.39. I have considered the proximity and connection to the designated site and the sensitivity of its Qualifying Interests (QI's) to changes in water quality. Also, I note that the conservation status for many of the QI's listed in this SAC are currently sub-optimal, meaning any adverse effects caused by the proposed development may have a potentially greater impact than if the habitats were in an optimal state. This is particularly relevant in relation to the SPAs where areas outside the designated site are also often important for bird species.

7.4.40. However, notwithstanding this, it is my opinion that the potential for significant impacts of this nature can be ruled out due on the basis of the mitigation measures proposed, and that any emissions reaching the estuary via the stream would be dissipated and heavily diluted by tidal currents and normal dispersion of sediment, nutrient cycling, and the redistribution of organic matter. I also note the topography of the land, presence of intervening land uses between the site and stream, which includes existing residential houses, a street (to the west / northwest only) and nature of the proposed development which is for single house connected to the public sewer system (albeit it appears to have reached capacity). In summary, I consider the hydrological connection is therefore indirect and weak, such that there is no real likelihood of any significant effects on European Sites in the wider catchment area.

7.4.41. I consider that the NIS contains complete, precise and definitive findings. My conclusion is that no reasonable scientific doubt remains as to the absence of any potential detrimental effects on the designated sites having regard to their conservation objectives.

In-combination Effects

7.4.42. I am satisfied that the proposed development, either alone or in-combination with other plans or projects, would not adversely affect the integrity of the screened-in European Site given the:

- extent and localised nature of the proposed works, which is for the demolition of three small derelict structures and construction of a single dwelling,
- distance separating the subject lands from the screened-in European Sites,
- dilution factor between the Site and European Sites and the settling out over distance,
- developed nature and setting of the subject site comprising habitats which are not considered to be of high biodiversity value,
- mitigation measures that will be put in place
- best practice guidelines, which will be implemented during both the construction and operational phases of the project.

7.4.43. With the inclusion of the proposed mitigation measures, I consider that the proposed development would not result in negative impacts on any of the features of interest for any European Site.

7.4.44. In summary, I also do not consider that there are any specific in-combination effects that would likely arise from the proposed development in conjunction with other plans or projects.

*Table 7.2: Qualifying Interests of European Site considered for Stage 2
Appropriate Assessment (NIS)*

Site Name / Site Code	Qualifying Interests
Boyne Coast and Estuary SAC (Site Code: 001957) [NPWS: Version 1, 31 October 2012]	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>
The Boyne Estuary SPA (Site Code: 004080) [NPWS: Version 1, 26 February 2013]	<p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p>

	Turnstone (<i>Arenaria interpres</i>) [A169] Little Tern (<i>Sterna albifrons</i>) [A195] Wetland and Waterbirds [A999]
Rockabill to Dalkey Island SAC (003000) [NPWS: Version 1, 7th May 2013]	Reefs [1170] Phocoena phocoena (Harbour Porpoise) [1351]

Conclusion

- 7.4.45. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act, 2000, as amended.
- 7.4.46. Having carried out screening for Appropriate Assessment of the proposed development, I have concluded that having regard to best scientific evidence, it could potentially have a significant effect on Boyne Coast and Estuary SAC (Side Code: 001957) and the Boyne Estuary SPA (Site Code: 004080). The Boyne Coast and Estuary SAC is directly adjacent the subject site on the eastern side of the access road. However, the SAC does not extend into the site itself. The Boyne Estuary SPA is roughly 200m to the northeast.
- 7.4.47. Consequently, an Appropriate Assessment was required of the potential implications of the project on the qualifying interests/special conservation interests of these sites in light of their conservation objectives.
- 7.4.48. Following a Stage 2 Appropriate Assessment, I have ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of this European Site, or any other European site, in view of the Conservation Objectives. My conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.
- 7.4.49. I consider that potential impacts can be successfully mitigated against by the successful implementation of the mitigation measures set out in the NIS prepared by

the Applicant and that there would be no deterioration in water quality or impacts upon any designated habitat or any species dependent on these designated habitats.

7.4.50. In summary, this conclusion is based on:

- a full and detailed assessment of all aspects of the proposed project, including proposed mitigation measures and environmental monitoring in relation to the Conservation Objectives of the European Sites referenced above,
- an assessment of in-combination effects with other plans and projects including historical projects, current proposals and future plans, and
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of these European sites.

7.5. Other Issues

Planning Authority Precluded from Granting Permission

- 7.5.1. The third party appellant states that as the Board refused permission for a previous, similar application on the site (ABP Ref. 308079-22), the Planning Authority should have been precluded from granting permission for the current application.
- 7.5.2. In this regard, I would note Section 8.14 of the Development Management Guidelines which states that future planning decisions on the same site need to have due regard to previous Board decisions. The Guidelines also state that any decision of the Board should be carefully examined by the planning authority to see whether it raises any policy issues in relation to the Development Plan and, particularly, where the decision of the planning authority has been reversed.
- 7.5.3. I note that the Planning Officer makes several references to the previous application throughout their report, including in relation to issues concerning design, siting and layout, residential amenity, overlooking and overshadowing. I am therefore satisfied that the Planning Authority gave due consideration to the previous decision made by the Board as part of their assessment of the current application.
- 7.5.4. I also consider that there is no formal provision by which the Planning Authority can be 'precluded' from granting permission in the manner described by the Appellant.

Prescribed Authorities

- 7.5.5. An observing party states that the Local Authority is formally required under legislation to contact certain prescribed bodies, prior to making a decision on a planning application, when accompanied by an NIS. Specifically, they state that Meath County Council failed to comply with section 28(1)(n) of the Planning and Development Regulations, 2001 (as amended), meaning their Decision is invalid, and the Board cannot carry out a lawful appropriate assessment in the absence of this information.
- 7.5.6. I have referred to the above cited legislation and do not consider that there is a mandatory formal requirement for the Planning Authority to give notice to specific certain bodies as claimed by the observer. I note the specific wording of the legislation in this regard, which states the Planning Authority shall send notice of the application ‘...where it appears to the authority that the development *might have significant effects* in relation to nature conservation – to the Heritage Council, the Minister and An Taisce - the National Trust for Ireland...’ (emphasis added). Therefore, and in having regard to this, I do not consider that the Planning Authority has failed to adopt the correct procedural approach in their assessment of the application and note that a review of the potential impacts in relation to the environment, designated sites, and nature conservation, was completed as part of their assessment of the proposal.
- 7.5.7. I further note that the Board sought the views of the NPWS (Development Applications Unit), An Taisce and the Heritage Council. A response was received from the NPWS, and this has duly informed my assessment of the application, particularly in relation to the issue of Appropriate Assessment.

Areas Requiring Consent

- 7.5.8. The Appellant queries whether the Applicant has obtained the appropriate consent to carry out works within the European Site in order for them to achieve adequate road visibility (sightlines) at the junction of the access lane and Golf Links Road. They state that no consultation has been undertaken with the NPWS in respect of the proposed works, which involves removing a large amount of habitat to facilitate safe access (i.e., hawthorn bush). In relation to this, the NPWS states that the Board

should satisfy itself that the proposed development will not result in any encroachment on vegetation within the SAC.

- 7.5.9. I do not consider that the development proposal would result in any unlawful actions or breaches of 'areas requiring consent'. I have physically inspected the site and examined the drawings on file. It is clear to me that whilst removal of small section of hawthorn would be necessary to achieve the desired visibility splay, I do not consider the amount of vegetation needed to be cut-back would be excessive or result in large swathes of natural habitat being destroyed. In my opinion, the amount of vegetation to be removed is more akin to normal roadside hedge cutting and trimming back practises, which are commonplace throughout the country, including next to, and within, designated sites.
- 7.5.10. I further note that the Board's Marine Ecologist has considered this issue as part of their report (on Page 9). The report states that the assertions by third parties that certain activities require consent by the Minister, including trimming a hawthorn bush, do not apply in this case as the consent function is covered by the planning application process.
- 7.5.11. Notwithstanding the above, I note that from 1st March to 31st August, section 40 of the Wildlife Act comes into play. This prohibits cutting, grubbing, burning and any other destruction of vegetation on otherwise uncultivated land. The purpose of this is to protect hedgerows during the spring and summer seasons, which are essential for maintaining wildlife diversity. Therefore, should the Board be minded to grant permission, I would recommend the inclusion of an appropriately worded condition to this effect.

Construction Access and Timeframe

- 7.5.12. There are third party concerns regarding the ability of the existing access road to accommodate construction traffic and related plant, and that the adjacent SAC would be negatively affected due to encroachment of vehicles into the protected area. I accept that construction vehicles are normally wide and heavy and that without reasonable care some vegetation within the SAC boundary could be disturbed or fragmentated – but only in the absence of appropriate controlling factors (i.e., mitigation measures).

- 7.5.13. In response, the Applicant submits that given the small scale and nature of the proposed development the number and frequency of construction vehicles needing to access the site would be minimal. They also state that vehicles and material deliveries will be scheduled by the site manager to ensure that only a single construction vehicle can arrive onsite at any one time. A commitment is given that all unloading and loading of deliveries would be done on the site and that at no point would entry into the SAC be required to facilitate the works.
- 7.5.14. I note that the access road is a narrow laneway comprised of a sand and gravel surface and that it the only means of accessing the site. It currently provides access to three other dwellings along its western side. The subject site is located in the middle of this row of houses. The laneway is included within the red line boundary for the application and shown as a right-of-way on the relevant drawings. Having completed a review of the NPWS boundary mapping, I am satisfied that laneway lies fully outside the Boyne Coast and Estuary SAC; albeit it runs tight against its western edge for roughly c. 180m.
- 7.5.15. The third party makes the contention that a template for older construction vehicles has been incorrectly relied upon by the Applicant to inform their auto-track analysis. They state, therefore, it cannot be said with certainty that modern-day construction vehicles would not be forced to enter into the SAC and thus cause damage to the protected area. During my physical inspection of the site, I observed that the property has wide frontage onto the accessway which extends for roughly 40m. There are no tight corners or angles, or restrictive entrance points, which would require the careful navigation, or complex reversing movements, of vehicles to access or egress the site. This is shown on the relevant site location map, proposed site layout plan and swept path analysis (drwg. nos. ABP-01 and ABP-02 refer). The vehicles can remain on the main part of laneway for manoeuvring purposes, save for a very small section on the laneway verge (shown in blue hatching), but this does not extend into the SAC itself, in my opinion. I note also that neither the Council's Transportation Department, nor Environment Section, raised any concerns regarding the proposed method of construction vehicles accessing the site.

- 7.5.16. Furthermore, the Applicant proposes that prior to the commencement of works a geotextile fence would be erected along the eastern perimeter of the track to ensure construction traffic would not encroach into the protected area. Whilst the fence, as a light-weight structure, would not be physically capable of containing a vehicle from running off course, I consider its presence would still assist in delineating the boundary between the accessway and the SAC and help to deter vehicles from accidentally crossing the threshold between sites. Therefore, I consider the fence to be a viable and effective mitigation measure in this context and that it would assist in preventing disturbance of the area during the construction phase.
- 7.5.17. In summary, I do not consider that it would be necessary, or likely, for construction vehicles accessing the subject property to travel through or accidentally cross over and into the adjacent SAC. I would also reiterate that given the small scale and nature of building works required in this instance – which is for the construction of a single dwelling and relates works – the construction phase should not be particularly complex, or protracted, in my opinion.
- 7.5.18. Lastly, and in relation to the timing of construction works, I note that the Appellant alleges that this can only take place during the month of September. This is due to the requirements of a condition imposed by the Planning Authority as part of their NoD to Grant Permission. However, I note that the condition(s) cited by the Appellant relate to a previous application made on the site (under ABP-308079-22, Reg. Ref. LB191339), and that no such condition forms part of the current Decision made by Meath County Council. In any case, whilst I consider it largely irrelevant for the purposes of assessing this appeal case, I note for the Board's convenience that the issue was addressed under Section 7.7 of the Inspector's Report (for ABP-308079-22).

8.0 Recommendation

- 8.1. I recommend that permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. On the basis of the submissions made in connection with the planning application and appeal, and in having regard to the information on file, including the report of the Water Services Section of Meath County Council (dated 13th January 2023), and in the absence of a current submission from Uisce Éireann regarding the current proposal, the Board cannot be satisfied that effluent generated by the development can be properly disposed of, or that the public foul water network has adequate capacity to ensure the development would not be prejudicial to public health.

[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.]

Ian Boyle
Senior Planning Inspector

25th April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	315076		
Proposed Development Summary	The proposed development is for the demolition of three vacant and derelict structures and the construction of a detached dwelling, garage and new site entrance.		
Development Address	The appeal site is situated at Shelton Place, Seaview, Mornington, Co. Meath.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	✓		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required

Yes	✓	10. Infrastructure Projects (b)(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.		Proceed to Q.4
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4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: Ian Boyle

Date: 19 March 2024


Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	315076	
Proposed Development Summary	The proposed development is for the demolition of three vacant and derelict structures and the construction of a detached dwelling, garage and new site entrance.	
Development Address	The appeal site is situated at Shelton Place, Seaview, Mornington, Co. Meath.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The subject development comprises a single dwelling in an area characterised by residential development. Therefore, the proposed development is not exceptional in the context of its existing receiving environment.</p> <p>During the construction phase the proposed development will create demolition waste as there are structures onsite which are proposed to be removed / demolished. However, given the small scale of the existing buildings, I do not consider that the demolition waste arising would be significant in the local, regional or national context.</p>	<p>No</p> <p>No</p>

	No significant waste, emissions or pollutants would arise during the operational phase due to the residential nature of the proposal.	
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The proposed development is for a single dwelling and ancillary works. It is not exceptional in the context of the existing environment.</p> <p>I do not consider there is potential for significant cumulative impacts as the proposal is for a single dwelling and related works in an existing residential area.</p>	<p>No</p> <p>No</p>
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant</p>	<p>The application site is adjacent a protected area, which is the Boyne Coast and Estuary SAC (Site Code: 001957). The proposed construction phase has the potential to impact on the SAC through vegetation clearance and removing / displacing soils. There is also potential for construction vehicles and plant to cause disturb to vegetation and habitats within the protected area due to the proximity of the access-track abutting the SAC. However, in having regard to the nature and scale of the proposed development (single house) and likely limited number of vehicles that would be required to travel to the site, I consider any disturbances would be minimal and temporary and capable of being</p>	<p>No</p> <p>No</p>

environmental sensitivities in the area?	<p>addressed by the mitigation measures set out as part of the NIS.</p> <p>There are no waterbodies on the site. However, there is a potential hydrological link between the subject site and the SAC from surface water runoff and ponding draining into watercourse to the northwest of the site.</p> <p>There is potential for water pollution from effluent and nutrient rich surface water runoff discharging to a nearby channel, which in turn feeds into the SAC. However, it is understood that this situation may already be occurring due to substandard wastewater infrastructure and that the proposed development (a single dwelling) would not give rise to significant ecological impacts from an EIA perspective.</p> <p>I consider that the potential for significant impacts of this nature can be ruled out due to the mitigation measures proposed, and that any emissions reaching the estuary via the stream would be dissipated and heavily diluted by tidal currents. In summary, I consider the potential hydrological connection between the site and SAC to be indirect and weak, such that there is no real likelihood of any significant effects on European Sites in the wider catchment area.</p>	
Conclusion		
There is no real likelihood of significant effects on the environment.	There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	There is a real likelihood of significant effects on the environment.

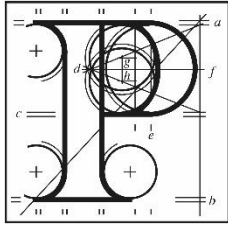
EIA not required. 	Schedule 7A Information required to enable a Screening Determination to be carried out.	EIAR required.
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Inspector: Ian Boyle

Date: 19th March 2024

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)



An
Bord
Pleanála

Memorandum

ABP-315076-22

To: Ian Boyle, Senior Planning Inspector
From: Conor Donnelly, Inspectorate Marine Ecologist
Re: ABP 315076-22
Demolition of three structures and the construction of a dwelling.
Shelton Place, Seaview, Mornington, Co. Meath
Applicant Karl Cunningham
Date: 29th February 2024

1.0 Introduction

This relates to the re-submission of a previous application that was granted by Meath County Council but subsequently refused by An Bord Pleanála (ABP Ref. 308079-20) for reasons relating to Appropriate Assessment.

The planning application included a Natura Impact Statement (NIS) (Whitehill Environmental, May 2022). Meath County Council's planning report was completed 25th October 2022 and included a Stage 2 Appropriate Assessment. The decision to Grant Permission with conditions was made on 27th October 2022.

An appeal was lodged 10 November 2022 by a third party, Colin Blake. The applicant's response to the appeal was received 9 December 2022 and included a response from Hydrocare Environmental addressing points made in the appeal pertaining to

wastewater, from Whitehill Environmental addressing points made in the appeal pertaining to the NIS and a Construction Environmental Management Plan (CEMP) (Traynor Environmental Limited, 8th December 2022). The Planning Authority responded on the 5th December 2022. Two observations were received from Cllr. Stephen McKee (24th November 2022) and Protect East Meath (22nd November 2022).

A further submission was received from the third party appellant on 21 January 2023. This included a number of appendices including, *inter alia*, photos showing vegetation proposed to be removed to improve sight lines, vehicular use of the laneway including measurements of road width, current pressures on the SAC and SPA (vehicles within dunes), wastewater (e.g. overflowing manholes and surface water drainage issues).

Further submissions were also received from the Planning Authority, Development Applications Unit, NPWS (30th January 2023); Meath County Council Water Services Section (13th January 2023) and Protect East Meath (11th January 2023).

1.1. **Scope of memo**

As part of my role as Inspectorate Marine Ecologist, I was requested to review the appeal documents and to consider a number of issues:

- Potential impacts arising from site access during construction on the Boyne Coast and Estuary SAC, including uncertainty of location of the access laneway in relation to site boundaries.
- Whether the proposed mitigation is sufficient to prevent adverse effects on the European site.
- Potential impacts related to waste and surface water during operation of the house once constructed.

This note to the Senior Planning Inspector is a written record of my review of the submitted information and will support the Inspector's report.

In providing this note, in addition to the documents referred to in the introduction I have also reviewed the following documents for the Boyne Coast and Estuary SAC and Boyne Estuary SPA:

- Statutory Instrument
- Site synopsis
- Conservation Objectives
- Conservation Objectives supporting documents

Available on the NPWS webpages for these sites:

Boyne Coast and Estuary SAC <https://www.npws.ie/protected-sites/sac/001957>

Boyne Estuary SPA <https://www.npws.ie/protected-sites/spa/004080>

2.0 Issues examined

2.1. Location of laneway in relation to SAC and SPA boundaries

2.1.1. Background

There are differing views on the location of the laneway in relation to the boundaries of Boyne Coast and Estuary SAC.

The site layout plan submitted with the application (drawing PP-02, McKevitt King Architects) shows the development site boundary includes the access laneway. In the NIS (Whitehill Environmental, May 2022), Figure 6 shows the same site boundary in the context of the Boyne Coast and Estuary SAC. In the figure, the laneway is immediately adjacent to but outside the SAC boundary (note: in the caption to Figure 6, the SAC is mis-identified as the River Boyne and Blackwater SAC rather than the Boyne Coast and Estuary SAC).

However, the Meath County Council Planners Report (Section 1.0 Site Location & Description) describes the development site as being located outside of the Boyne Coast and Estuary SAC but accessed via a right of way laneway which is located within the SAC. The appellant refers to this statement that the laneway is within the SAC in their appeal.

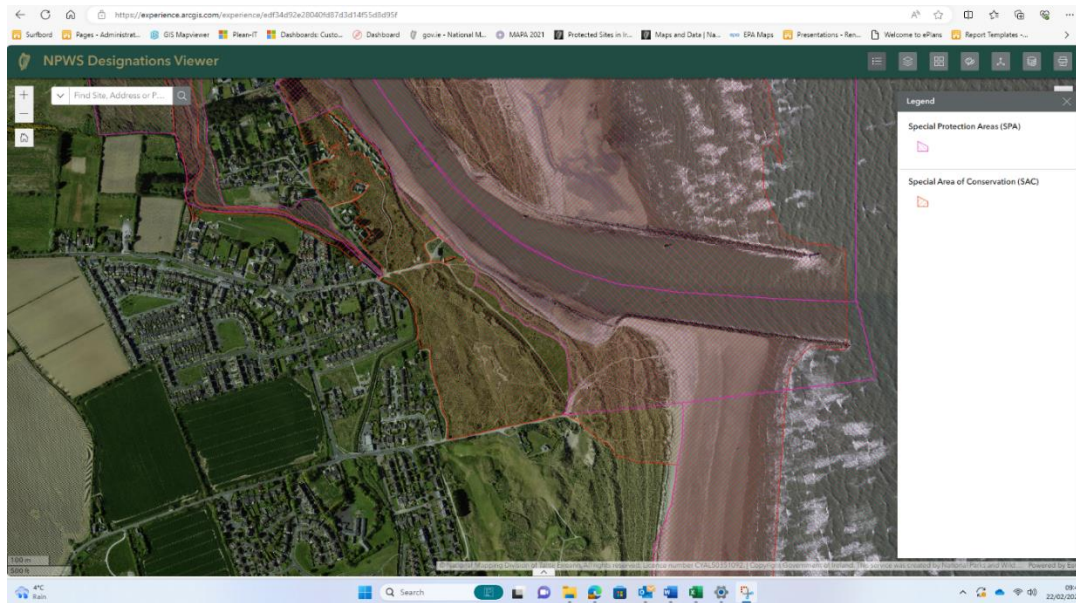


Figure 1. Screen grab of development site location including laneway in relation to Boyne Coast and Estuary SAC and Boyne Estuary SPA against MapGenie Imagery 2013 to 2018 (ITM) basemap (source: NPWS Designations viewer²).

The further information from Protect East Meath also refers to the laneway being within the SAC.

In their submission, the NPWS summarise the development as, “it is proposed to construct a 1.5 storey residence on a 0.4 ha site of a former caravan park separated from the SAC by an unsurfaced track along which there is a right of way to the development site from the south.

2.1.2. Note

Review of the NPWS Designations viewer (see screen grab below) with the SAC and SPA layers displayed against the most recent aerial photography basemap (MapGenie Imagery 2013 to 2018 (ITM)) shows the laneway to be outside the boundaries of the SAC (see Figure 1). A ‘zoomed in’ view is added beneath to improve clarity (Figure 2).

²

https://experience.arcgis.com/experience/edf34d92e28040fd87d3d14f55d8d95f?data_id=a098bb9afd314c0897703b17b4a8f1cb-18a40c83b2b-layer-8%3A1335



Figure 2. ‘Zoomed-in’ screen grab of image shown in Figure 1.

The boundaries shown in the above images are consistent with the boundaries shown in the NIS. As such, it appears clear that the laneway is outside the SAC boundary.

It is noteworthy that the higher resolution image in the NIS (figure 6) shows that the laneway does not directly abut the SAC boundary as there is a narrow margin to the east of the laneway that is outside the SAC.

2.2. Potential impacts on the SAC arising from access to site

2.2.1. Background

The appellant identifies a series of impacts on the SAC arising from the proposed development including:

- Construction within the SAC thereby reducing habitat extent, with specific reference to the laneway used to access the development site.

- Removal of SAC habitat, in terms of trimming back of hedging, as part of works to improve sightlines.

The applicant, in their response to the appeal, noted that:

- Potential impacts by construction related vehicles on the laneway and the SAC have been addressed in the application. A Construction and Environmental Management Plan (CEMP) and NIS have been prepared which identify potential risks and set out comprehensive mitigation measures to ensure the protection of the SAC. Encroachment onto the SAC is prevented by boulders and, in parts, a bank along the eastern side of the laneway. Any disturbances from traffic would be minimal and temporary given limited number of construction vehicles.
- There be no removal of vegetation, just 'minor trimming'. And there would be no loss of flora or fauna. There would be no breach of Activities Requiring Consent as there would be no loss of hedgerow or vegetation due to construction works.

The further response from the appellant noted, amongst other things:

- Unfavourable / inadequate status of fixed dune qualifying interest at Mornington and relates this to damage caused by unregulated vehicle, horse and pedestrian access.
- Access laneway within SAC and issues relating to construction related vehicles being able to navigate down it without causing damage to the SAC.
- Concern about impact on vegetation in SAC in relation to work to improve sight-lines. Habitat composed of mixed grasses, marram grass and hawthorn trees, applicant wants to reduce hawthorn trees by 7m in height and cut back marram grass that anchors fixed dunes in place.
- Swept path analysis is flawed.

In their submission, NPWS concluded that the implementation of the proposed mitigation measures (including education of personnel working on site as to vulnerability of SAC habitats and erection of geotextile fence along the laneway / SAC boundary) can avoid adverse effects on the SAC. NPWS noted that the applicant might not have the legal capacity to fence off the

SAC boundary as proposed. They raised a concern that the cutting back of a hawthorn bush within the SAC to improve sight lines along the access laneway may involve the removal of more than one bush and result in removal of vegetation from within the SAC.

Protect East Meath in their further response raised concerns regarding the impact of works along the access laneway on the SAC, impacts on the fixed dune qualifying interest as a priority habitat, current SAC condition and how these matters have been considered (or not) in the NIS. They also raised concerns regarding the swept path analysis used to assess potential encroachment of construction-related vehicles using the laneway on the SAC and the geotextile fence proposed as mitigation.

2.2.2. Note

The applicant site is immediately adjacent to SAC. The qualifying interest in this part of the SAC is fixed dune habitat (Fixed coastal dunes with herbaceous vegetation ('grey dunes') (2130)) which is a priority habitat.

The fixed dune habitat is in unfavourable condition. It has a 'restore' objective (NPWS, 2012)³ and NPWS' 'Conservation objectives supporting document – coastal habitats' (2012)⁴ notes that the extent attribute of this habitat is affected negatively by human induced erosion due to recreational activities. The document notes that the target for the 'vegetation structure: bare ground' attribute is not met at Mornington with the area of bare sand exceeding the 'up to 10% bare sand' target (allowing for natural processes).

The fixed dune habitat also includes a 'vegetation composition: scrub/trees' attribute. The NPWS supporting document notes that scrub encroachment leads to reduction in dune

³ NPWS (2012). Conservation Objectives: Boyne Coast and Estuary SAC 001957. Version 1.0. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.
https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO001957.pdf

⁴ NPWS (2012). Boyne Coast and Estuary SAC (site code 1957). Conservation objectives supporting document -coastal habitats. Version 1. August 2012.
https://www.npws.ie/sites/default/files/publications/pdf/001957_Boyne%20Coast%20and%20Estuary%20SAC%20Coastal%20Supporting%20Doc_V1.pdf

biodiversity and needs to be controlled. The presence of scrub and trees which have deep roots can also lower the groundwater table which can have significant impacts on the slack communities. The target for this attribute is that the cover of scrub and tree species should be under control or make up less than 5% of the vegetation cover. I couldn't find information in the NPWS supporting document or the extract of the Coastal Monitoring Project (Ryle *et al*, 2009) included within it on how this attribute specifically is performing in the SAC. The structure and function attributes (of which this attribute is one) are collectively assessed as unfavourable due to a lack of grazing which has resulted in marram grass occurring throughout the fixed dune habitat at Mornington.

Images presented in the further information supplied by the appellant clearly show the pressure the site is under in relation to vehicle access within the SAC, including a burnt-out car, submerged car, bare areas of dune etc. This is well known and correspondence with the Minister attached by the appellant shows efforts being made to address this with relevant parties.

As noted in section 2.1.2, the access laneway is not within the SAC but runs alongside the SAC boundary, so in my opinion the key thing to consider is the risk of construction vehicles extending beyond the boundary of the laneway into the SAC.

The previous inspector noted that the laneway is narrow and there are obstructions to the west including ESB poles and cables which needs to be taken into account. It is seemingly not uniformly narrow – images provided by the appellant show that in places vehicles seem to park alongside it with space for other vehicles to pass. The applicant also notes that there is a bank of vegetation on the eastern boundary of the laneway, and this is evident in some of the images, which they say would prevent encroachment into the SAC.

Drawing No. ABP-02 shows the swept area analysis. There isn't any information on the drawing that I can see that provides explanation of what the red-hatching and blue-hatching represent but presumably these represent the swept area of vehicles accessing the site. The

analysis indicates vehicles stay within the confines of the laneway except for a small area adjacent to the site where the swept area seems to extend beyond the boundaries of the laneway. The SAC boundary appears to be shown on the drawing (although not identified as such) and the extension of the swept area beyond the laneway does not extend into the SAC.

As such, the risk of encroachment onto the SAC by vehicles accessing the site seems relatively small and, in my view, if the measures set out in the NIS and the CEMP are applied, including those listed below, risk should be minimised and adverse effects on these sites avoided.

- Training of the site engineer and contractors with regards the proximity and ecological sensitivity of the European sites.
- Erection of the geotextile fence.
- All deliveries being met by a site representative, “at the entrance to the laneway to ensure they are aware of the SAC, its sensitivity, and the exclusion area to the east of the access laneway. All vehicles entering and exiting the site must avoid any contact or intrusion on the SAC” (Page 12 of the CEMP).

With regards the trimming of the hawthorn bush at the entrance to the laneway, Drawing No. ABP-01 shows this trimming work is limited to the area at the entrance to the laneway. The applicant notes that the work involves trimming of a bush rather than removal of whole shrubs / hedgerow. These shrubs are not part of the dune grasses and typical species and associated sub-communities referred to in the conservation objectives and supporting documents. However, NPWS noted concerns that cutting back of the hawthorn may in fact involve interfering with more than one bush and result in removal of vegetation from the SAC. Limiting the works to trimming as described by the applicant in their application and implementing the mitigation set out in the NIS/CEMP should ensure this risk is minimised to avoid adverse effects on the SAC (and any disturbance to breeding birds).

With regards comments made regarding Activities Requiring Consent of the Minister (ARC) and the need for consent for the trimming, consent granted by the Minister is not required here as the consent function is covered by the development permission process.

2.3. Wastewater issues

2.3.1. Background

With regard wastewater, the appellant made the following points:

- Wastewater disposal has not been properly assessed by the Planning Authority.
- The adjacent houses in Seaview are at the lowest part of the sewerage network. Flood events have occurred as a result of sewers filling to capacity and overflowing into residential gardens. Installation of a Non-Return Valve on the road outside Seaview has improved things.
- The development seeks to connect into a system that is already stressed and no longer fit for purpose, and for which there is no separation of foul and grey water.

The applicant responded that they have engaged with Uisce Éireann regarding wastewater disposal / treatment under the previous application who stated no objection subject to conditions.

In their further response, the appellant notes that:

- The Hydrocare Report does not address wastewater concerns, only flooding.
- There is no capacity in the surface or wastewater infrastructure for the area.
- The applicant does not have consent from Uisce Éireann or the council to connect to the public wastewater system which is antiquated and not fit for purpose.

Meath County Council Water Services note the impact of the Non-Return Valve (NRV) on the main sewage line could be operable for days due to high tides and high groundwater levels with the result that flooding of wastewater occurs in the Estate and the water services caretaker has had to call in a tanker occasionally to empty the network. The proposed storm water storage on the application site might not work as it is on high ground and all of the housing estate would need to back up before it becomes operational. Also, the proposed connection to the sewage system is on a private section of the network which may require wayleaves from third parties that may be difficult to obtain.

NPWS note the overflow of sewage from the Seaview Park manholes risks polluting the nearby Mornington Stream (46m from the applicant site) which runs along the edge of the SAC and has hydrological connectivity to the Boyne Estuary 600m away. This has the potential to affect dune, intertidal flat and saltmarsh interest features of the SAC and NPWS note that this wasn't considered in the NIS.

2.3.2. Note

The NIS did identify "Deterioration of water quality in designated areas arising from pollution from surface water run-off during site preparation and construction" and "Deterioration in water quality in designated areas arising from pollution during operation of the proposed development" as potential impacts on the SAC and SPA that required further consideration in the NIS. However, these impacts appear to have been ruled out on the basis that wastewater and surface water will enter the local sewerage network and storm water network respectively and there are no watercourses within the development site or along the access laneway which would transport pollution to the SAC and SPA.

The NIS does not consider the issues raised by the appellant regarding the problems with capacity in the surface and wastewater infrastructure in the area. The information provided by the appellant (including images of overflowing manholes and surface water drainage issues) and Meath County Council Water Services indicates that flooding from waste and surface water does occur in the estate.

Review of the conservation objectives for the SAC and SPA supporting documents does not identify issues related to pollution by wastewater affecting condition of the qualifying interest

of these sites. These documents are now quite old, published in 2012^{5,6,7}. The features of these sites are considered to be favourable or, if unfavourable, this is due to other reasons. For example, the fixed dune habitat of the SAC is considered unfavourable in terms of habitat extent due to human induced erosion arising from recreational activities and in terms of structure and function due to undergrazing. The saltmarsh habitats, “Salicornia and other annuals colonising mud and sand” and “Atlantic salt meadows” are considered unfavourable in terms of future prospects due to colonization by common cordgrass (*Spartina*).

The existing issue with the surface and wastewater infrastructure is not a ‘plan or project’ that would need to be assessed in combination with this application in the appropriate assessment but represents the baseline conditions affecting the site. By itself, it is unlikely that this proposed development will add significantly to this existing issue. Implementation of the conditions proposed by the council and mitigation set out in the NIS/CEMP should ensure this risk is minimized to avoid adverse effects on the integrity of the SAC and SPA.

3.0 Conclusion

I consider implementation of the Planning Authority conditions including the mitigation set out in the NIS and CEMP should ensure the risk posed by the application with regards potential impacts arising from access during construction, trimming of vegetation and impacts on the wastewater system, is minimized to avoid adverse effects on the Boyne Coast and Estuary SAC and Boyne Estuary SPA.

⁵ NPWS (2012). Boyne Coast and Estuary SAC (site code 1957). Conservation objectives supporting document - coastal habitats. Version 1. August 2012.
https://www.npws.ie/sites/default/files/publications/pdf/001957_Boyne%20Coast%20and%20Estuary%20SAC%20Coastal%20Supporting%20Doc_V1.pdf

⁶ NPWS (2012). Boyne Coast and Estuary SAC (site code 1957). Conservation objectives supporting document - marine habitats. Version 1. September 2012
https://www.npws.ie/sites/default/files/publications/pdf/001957_Boyne%20Coast%20and%20Estuary%20SAC%20Marine%20Supporting%20Doc_V1.pdf

⁷ NPWS (2012). Boyne Estuary Special Protection Area (site code 4080). Conservation objectives supporting document. Version 1. September 2012
https://www.npws.ie/sites/default/files/publications/pdf/004080_Boyne%20Estuary%20SPA%20Supporting%20Doc_V1.pdf

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