



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315784-23

#### Development

5 residential units, pedestrian access and site development works.

Significant further information received on 24/11/2022. A Natura Impact Statement (NIS) accompanies this application.

#### Location

29-32 Trinity Street, Drogheda, Co. Louth

#### Planning Authority

Louth County Council

#### Planning Authority Reg. Ref.

22567

#### Applicant(s)

Susan and Seamus Fagan.

#### Type of Application

Permission.

#### Planning Authority Decision

Grant with Conditions

#### Type of Appeal

Third Party

#### Appellant(s)

1. Ina McCrumlish and others.
2. Ronan Carr

#### Observer(s)

None.

**Date of Site Inspection**

24<sup>th</sup> April 2024.

**Inspector**

Lucy Roche

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## **1.0 Site Location and Description**

- 1.1. The proposed development site is within the urban area of Drogheda and comprises vacant lands to the rear of No's 29-32 Trinity Street, a terrace of single storey dwellings, c250m west of Georges Street. The site is bounded to the west by St. Anthony's, a detached, part two-part and part-three storey dwelling, that forms part of the applicant landholding, and to the east by the rear garden area of St. Michaels, No. 27 Trinity Street. The lands back onto an area of public open space that extends along northern bank of the Boyne River. The Boyne River is tidal at the site and is therefore referred to as the Boyne Estuary.
- 1.2. The site slopes steeply from the northern boundary of the site to the southern boundary at an average gradient of approximately 27.1% (1 in 4) (as stated). The lands are heavily overgrown with brambles and shrubs, the high-risk invasive species Japanese Knotweed and medium risk species Buddleia have been identified within the site. Information on file indicates that the site has also been subject to dumping and anti-social behaviour.
- 1.3. The site has a stated area of 0.069ha.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for a residential scheme of 5no units comprising one, detached three-bedroom dwelling and a separate three-storey multi-occupancy building containing two one-bed apartments at ground level and two, two-bed duplex units at first and second floor levels with private balconies.
- 2.2. The main access to the development is a proposed via a 3m wide gated pedestrian entrance off Trinity Street, which leads to a ramped pedestrian walkway. Secondary pedestrian access is proposed via the Boyne River riverwalk to the south. The proposal includes for all associated site development works, boundary treatments, landscaping, and external lighting.
- 2.3. Significant further information received by the planning authority on the 24<sup>th</sup> of November 2022 includes changes to the development following a request for further information. Alterations to the scheme includes revisions to the redline site boundary and increased building heights.

2.4. Table 2.1 below provides a summary of the proposed scheme:

<b>Table 2.1: Key Development Details</b>		
<b>Site Area</b>	0.069ha	
<b>No. of Residential Units</b>	5	
<b>Density</b>	72.4units/ha	
<b>Housing Mix</b>	2no. 1-bedroom apartments (40%) 2no 2-bedroom duplexes (40%) 1no 3bedroom house (20%)	
<b>Building Height (as amended)</b>	2 storey Dwelling (c6.8m) and 3 storey Duplex (c9.4m)	
<b>Parking</b>	Car Parking	0
	Cycle Parking	8
<b>Access</b>	Pedestrian Access from Trinity Street (north) and River Boyne riverwalk (south)	
<b>Surface Water</b>	Discharge to River Boyne via on-site attenuation tank with hydro brake flow control and interceptor.	
<b>Water supply</b>	Connection to public mains	
<b>Foul Drainage</b>	Connection to public mains via an existing manhole to the southeast corner of the site.	

2.5. The application is accompanied by:

- A Natura Impact Assessment (updated at FI stage)
- Design and Access Assessment
- Residential Quality Audit
- Outline Construction management Plan
- SUDs assessment
- Building Lifecycle report

- Daylight Analysis and Overshadowing Report (updated at FI stage)
- Flood Risk Assessment
- Winter Bat Survey
- Winter Bird Survey
- Japanese Knotweed report
- Archaeological Report

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Following an initial request for further information (September 2022) Louth County Council decided to grant permission for the development (as amended), subject to 23 conditions, the following of which are of note:

Condition 2 Requires compliance with the mitigation measures set out in the NIS.

Condition 4 Requirements the eradication of knotweed from the site prior to the commencement of development

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

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

- The initial report of the Local Authority Case Planner (Sept.2022) has regard to the context and planning history of the site, to relevant planning policy and to the third-party submissions and departmental reports received.
- Part 2 of the report considers EIA and AA and determines that the works proposed do not require an EIA but that a Stage 2 Appropriate Assessment is required. The report considers the NIS submitted in support of the application and determines that the mitigation measures recommended in the report are not sufficient to address identified potential impacts.
- Part 3 of the report comprises the Case Planners assessment of the proposed development. It is considered that the proposal would encourage town centre

living, that the design and layout of the scheme has due regard to the position of the site relative to the Boyne River and adjoining properties, the topography of the site and its southern orientation and that the layout of the scheme would ensure the creation of a quality and attractive residential development.

- The report concludes with a request for further information on matters relating to site boundaries, Part V, archaeology, compliance with Apartment Guidelines, daylight/ sunlight, Appropriate Assessment, landscaping, public lighting, parking, construction access and water services.
- The second report of the Case Planner (Jan. 2023) considers the further information received on the 24<sup>th</sup> of November 2022 along with issues raised in the third-party submissions and departmental reports received.
- In respect of AA, the report concludes that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of European sites.
- The report concludes that, subject to compliance with conditions, the proposed development (as amended) would constitute an acceptable residential density in an urban area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. It recommends that permission be granted subject to condition.

### 3.2.2. Other Technical Reports:

- Infrastructure
  - Aug. 2022: Requests further information on issues relating to construction management, access, surface water drainage and application for a foreshore licence.
  - Dec. 2022: Recommends that permission be granted subject to condition.
- Heritage Officer (Aug 2022): In respect of the NIS, requests that compliance with mitigation measures be included as a condition of any grant

of permission; in respect of the winter bird survey, requests that an additional site visit be carried out in April /May; in respect of the winter bat survey, notes that the site is not important for bats and suggests that the landscaping plan include night scented plants to attracts bats; in respect of the Japanese knotweed treatment report, queries whether construction works can commence during recommended two year re-growth period.

### 3.3. Prescribed Bodies

- Uisce Eireann: No objection
- DHLG&H (Development Applications Unit):
  - Aug.2022: Notes the location of the site, just outside the zone of notification associated with the Historic Town of Drogheda (LH024-041). Requests the submission of an Architectural Impact Assessment.
  - Dec.2022 - Recommends the inclusion of archaeological conditions in the event of a grant of permission.

### 3.4. Third Party Observations

The planning authority received 13 submissions during the course of their determination of the application. Submissions were received from the co-owners of St. Michael's, the neighbouring property to the east and from the owners/occupies of St. Jude's, a detached two-storey dwelling c25m to the west of the proposed development site. One submission was received in support of the proposed scheme. The issues raised in the submissions are similar to those set out in the grounds of appeal which are summarised in Section 6.1 of the report.

## 4.0 Planning History

### 4.1. Appeal Site (including adjoining lands to the west -St. Anthony's)

PL54.219643 (Reg. Ref. 05/510102): Permission **refused** on appeal to demolish house, construct 1 no. office unit, 1 no retail unit, 13 no. apartments, 4 no. houses,

underground car park and site works. ABP cited one refusal reason concerning the height, scale, mass, and density of development which represented overdevelopment of the site that would have resulted in a substandard level of residential amenity for future occupants and an undue impact on the visual amenities of adjoining properties.

#### 4.2. Neighbouring Lands to the west (St. Anthony's)

ABP-3000807-18 (Reg. Ref:17/724): Permission **granted** for the demolition of existing store and construction of an extension to St Anthony's comprising: - single bedroom extension at basement level with two one-bedroom residential units over on two storeys.

PL54.227144 (Reg. Ref. 07/510212): Permission **granted** for demolition of buildings, erection of 13 apartments, shop and office unit, car park with courtyard and site works.

#### 4.3. Lands to the south

ABP-315460-23: Permission **granted** for local authority Development involving the construction of the Boyne Greenway - North Bank

### 5.0 Policy Context

#### 5.1. Louth County Development Plan 2021-2027 (LCDP)

##### 5.1.1. Zoning

The proposed development site is subject to two zoning objectives as follows:

*B1 'Town and Village Centre'* with the objective "*To support the development, improvement and expansion of town or village centre activities*". Residential is listed as a land use that is "generally permitted" within this zoning.

*'H1 Open Space'* with the objective to "*preserve, provide and improve recreational amenity and open space*". This zoning refers to areas of 'active' and 'passive' open space. Development that will improve the facilities or quality of the open space, amenity or recreational facilities, or contributes to the enjoyment of the space will be

considered. Cycleway/Walkway trails are listed as a land use that is “generally permitted” within this zoning.

#### 5.1.2. Chapter 2 – Settlement Hierarchy / Core Strategy

Table 2.4 of the County Development Plan sets out the settlement hierarchy for County Louth. Drogheda is designated as Regional Growth Centres. The Plan set out the following guidance for these centres:

*“Regional Growth Centres are large towns with a high level of self-sustaining employment and services that act as regional economic drivers and play a significant role for a wide catchment area”.*

The following policy objectives are of Note:

CS 2: To achieve compact growth through the delivery of at least 30% of all new homes in urban areas within the existing built-up footprint of settlements, by developing infill, brownfield and regeneration sites and redeveloping underutilised land in preference to greenfield sites.

#### 5.1.3. Chapter 3 Housing

Section 3.7 relates to “*Town Centre Living*” and refers to a multi-dimensional approach to re-energising and returning vibrancy to town centre in light of the changing retail environment. Residential development may be considered at ground floor level in certain circumstances, or locations where there has been a sustained level of vacancy over a prolonged period. This will normally be on lands outside the Core Retail Area of town centres. The provision of such accommodation will only be facilitated in circumstances where it is demonstrated that the development would complement the role of the town centre as a ‘destination’ for commercial, social, or cultural activities.

#### 5.1.4. The following policy objectives are of Note:

HOU 11: To encourage and support a range of appropriate uses in town and

village centres that will assist in the regeneration of vacant and under-utilised buildings and land and will re-energise the town and village centres, subject to a high standard of development being achieved.

5.1.5. Chapter 13 – Development Management

5.1.6. Chapter 13 of the County Development Plan sets out Development Management Guidelines. The following are of relevance:

- Section 13.8.10 relates to Daylight and Sunlight. The following guidance is set out in this regard: *“Care shall be taken in the design of residential developments to ensure adequate levels of natural light can be achieved in new dwellings and unacceptable impacts on light to nearby properties are avoided. The Building Research Establishment (BRE) guidelines ‘Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2011) and BS 8206-2008 –‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’ - provide useful guidance on avoiding unacceptable loss of light and ensuring developments provide minimum standards of daylight for new units.*
- 13.8.15 Public Open Space provides that for residential developments of up to five dwelling units where the layout is of a high quality and includes private open space in excess of the minimum area recommended there shall be no requirement to provide public open space.
- Section 13.8.28 relates to Design Standards for Apartments. This outlines that all applications for apartments are required to demonstrate compliance with the Design Standards for New Apartments and the SPPR’s set out therein.
- Table 13.11 sets out Car Parking Standards. This sets out a requirement of 1 space per apartment in Areas 1 and 2. Section 13.16.12 of the Plan outlines that a reduction in the car-parking requirement may be acceptable in certain circumstances.
- Table 13.12 sets out Cycle Parking Standards. For apartment the requirement is

1 space per bedroom (long term) and 1 space per 2 units (visitor/short stay).

## 5.2. National Policy and Guidance

Regard is had to:

- Project Ireland 2040 - National Planning Framework (2018)
- Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019-2031
- Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (January 2024)
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, (updated 2022).

## 5.3. Natural Heritage Designations

5.3.1. The redline site boundary (as amended at further information stage) extends into the River Boyne and River Blackwater SAC to the south. The following designated sites are located within the wider geographical area:

Designated Site	Site code	Distance
<b>River Boyne and River Blackwater SAC</b>	<b>002299</b>	<b>Partially within</b>
River Boyne and River Blackwater SPA	004232	c2.4km to the west (upstream)
Dowth Wetland pNHA	001861	c4km to the west
Boyne Estuary SPA	004080	c2.4km to the east
Boyne Coast and Estuary pNHA and SAC	001957	c3.6km to the east
Boyne River Islands pNHA	001862	c2km to the west (upstream)
King William's Glen NHA	001804	c3.8km to the west
River Nanny Estuary and Shore SPA	004158	c8.6km km to the southeast
Laytown Dunes /Nanny Estuary pNHA	00554	c7.8km to the southeast
North-West Irish Sea SPA	004236	c7.7km to the east

## 6.0 The Appeal

### 6.1. Grounds of Appeal

Two third-party appeals have been lodged by Stephen Ward, Town Planning and Development Consultants on behalf of:

1. Mr. Ronan Carr, part owner of St. Michaels's, 27 Trinity Street a residential property to the east of the appeal site. The appeal is supported by commentary from CSC Consulting on the daylight analysis submitted with the planning application.
2. Ms. Ina McCrumlish, Matthew Judge and Sarah Jane Judge, all of 19 St Jude's, a residential property located c20m to the west of the appeal site.

Both appeals raise similar issues which can be grouped and summarised as follows:

- Administrative and Regulatory Matters: - It is contended that the planning application as lodged with the planning authority is invalid for the following reasons:
  - The public notices are deficient in that they fail to adequately describe the proposed development (construction access/ haul route, change to ground levels, earthworks/retaining structures, drainage, height of dwelling). Additional notices should have been erected at junction between Horse Lane and Trinity Street and at the point where the proposed construction access road abuts the public car-park.
  - Louth County Council are part owners of the site however the letter of consent from Louth County Council for works on their lands was not available on the website.
  - The area dedicated within the redline boundary for pipe-runs is too narrow to facilitate these works. Separate consent is required for these works and for discharge to the river.
  - The planning application form fails to specify if the site has ever been flooded, or if it had any previous uses, notably dumping of quarrying

(evidence on file suggests dumping has occurred on site). It also includes inaccurate information regarding surface water disposal.

- Necessary information in respect of Part V provision not submitted in accordance with Article 22(2)(e)(i) and(ii).
- Planning History: - The refusal reasons cited under Reg. Ref: 05510102 also apply to the scheme now proposed.
- Construction Access: -
  - The use of Horse Lane to facilitate access to the site during construction would endanger public safety by reason of traffic hazard and otherwise. Horse Lane provides access to a public carpark and Coastguard Station; it cannot be closed off for construction traffic. No road Safety Audit has been submitted.
  - The construction access road, although temporary, would materially contravene the H1 zoning objective.
  - The flood risk assessment submitted does not consider the construction access road, Horse Lane or the Car Park with obvious implications for carrying out the development and the NIS.
  - The construction access road would require the removal of trees which has not been considered in the NIS or ecological studies submitted with the application.
- Natura Impact Assessment
  - The NIS / revised NIS is flawed in that it fails to acknowledge that the proposal involves works outside the redline site boundary and within the River Boyne SAC (i.e. - 2no pedestrian connections to the Boyne River Walk, the discharge from the surface water attenuation tank, and the connection to the existing foul manhole)
  - The NIS fails to adequately consider and adequately mitigate potential impacts arising from the construction and use of the construction traffic access route (haul road), the construction of pipework, dust, flooding during construction, potential failure of the on-site attenuation tank.

- Proposed mitigation measures for potential impacts arising from the discharge of surface water and foul water into the river Boyne are insufficient.
- Correspondence from Waterman Moylan contains proposals that require mitigation by condition which is not acceptable in the context of the NIS submitted with the application.
- The requirement to make a foreshore licence application have not been adhered to.
- The NIS fails to adequately describe the Conservation Objectives of the Natura sites.
- Deficiencies in studies submitted in support of the proposed development.
  - The Flood Risk Assessment is lacking in detail and fails to support its conclusion that no displacement flooding to flood prone lands will result. It fails to consider estuarial flooding and references the wrong statutory plan.
  - The Planning Statement incorrectly references the 2018 Apartment Guidelines instead of the more up to date 2020 Guidelines and fails to demonstrate compliance with other relevant Section 28 guidelines.
  - The Daylight Analysis and Overshadowing Assessment: - is based on outdated standards / guidance. It provides no analysis of sunlight to proposed amenity areas. The overshadowing analysis provided for the private amenity space of No.29-32 Trinity Street is unclear. The report does not assess Impacts to No.27 Trinity Street. The proposal would provide a poor-quality living environment for possible future occupants.
- Development Plan Policy and Development Management Considerations: -
  - The proposed residential scheme would be contrary to the B1 Town or Village Centre zoning which encourages mixed use development.
  - The application fails to adequately consider the impact of the proposal on the landscape and on visual amenity. Verified photomontages are required.

- The proposed development would be built close to the river and river walkway in a manner contrary to the prevailing built form and character of the area. It would bring a harsh urban edge to the riverbank.
- Inadequate provision of private open space / privacy for the proposed dwelling house.
- Impacts on Residential Amenity
  - The proposed scheme would have a negative impact on the amenities of neighbouring properties by way of noise and light pollution, overbearing / visual intrusion, odour from bin storage, loss of privacy.
  - The proposal would provide sub-standard level of residential amenity for future occupants.
- Lack of On-site Parking Provision:
  - The lack of parking provision for the proposed scheme has not been justified. It would result in a traffic hazard, give rise to congestion and result in unregulated parking in the area.
  - There is a lack of parking in the area.
  - The complete lack of on-site parking is a material contravention of the Development Plan.
- Environmental Impact Assessment
  - The proposed development requires a formal EIA determination having regard to the characteristics of the proposed development and its location within an environmentally sensitive area.
- Appellant Pedestrian gate to public park
  - The proposed construction access road would cut-off access from Mr. Carr's property to the public park during the construction period. Mr Carr has not given consent for the blocking up of his pedestrian gate and his right of access to the park.

## 6.2. Applicant Response

The applicant's response to the grounds of appeal is set out in correspondence received on the 1<sup>st</sup> of March 2023 and can be summarised as follows:

- The proposal represents a unique opportunity to develop a derelict back land site in town centre Drogheda.
- The development respectively nestles into the existing sloped site while providing architectural success in terms of massing, materiality, and passive green design.
- The two appeals do not make any meaningful comment on the proposed scheme, they are made to delay the development, are without substance and are frivolous. It is requested that the Board dismiss the appeals.
- The appeals include false and misleading reasons for appeal.
- The appeal unduly perceives negative impacts of overshadowing by the proposed development on 27 Trinity Street which is located at a higher level and to the east of the appeal site. The report by CSC consulting submitted in support of the appeal is unreliable and without substance.
- The appeal misinterprets the existing ground level and incorrectly describes the extent of ground level alterations proposed.
- The construction of a temporary haul road for construction purposes does not materially contravene the zoning objective.
- The resubmitted NIS includes detailed mitigation measures which successfully negate any impact the development would have on the adjoining SAC/SPA.
- The appellants claim to access to the riverwalk is without substance. The access shown in the submitted photograph is not a gate and there is no connection to the riverwalk pathway.

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

The Planning Authority's response to the issues raised in the grounds of appeal is set out in correspondence received on the 15<sup>th</sup> of March 2023 and can be summarised as follows:

- The Planning Authority refers to the assessment set out in the planning reports on file.
- They include in their submission, correspondence from Irish water dated the 1st of April 2022 and received by them on the 15th of July 2022. The document relates to a pre connection inquiry and confirms that water and wastewater connections to the site are feasible.
- The proposed development on this site, within the existing urban fabric of Drogheda and in proximity to Drogheda's town centre facilities and amenities, provides optimal standards to encourage urban living.
- The proposed development accords with local, regional, and national planning policy and represents an acceptable quantum of development in terms of overall height and density in this area.
- The proposal is considered acceptable in terms of predestinarian and Traffic Safety and is considered to be in accordance with proper planning and development of the area.
- The Planning Authority respectfully requests the Board to uphold its decision to grant permission for this development subject to condition.

### **6.4. Observations**

- None

## **7.0 Assessment**

### **7.1. Introduction**

- 7.1.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, the reports of the local

authority and having inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Legal and Procedural Issues:
- Zoning
- Layout and Visual Impact
- Impact on Existing Residential Amenity including Daylight / Sunlight Analysis.
- Residential Amenity – Future Occupants
- Access and Parking
- Flood Risk
- Environmental Impact Assessment (EIA)
- Appropriate Assessment. (AA)

I am satisfied that all other issues were adequately addressed by the Planning Authority and that no other substantive issues arise.

## **7.2. Legal and Procedural Issues.**

### Validity of Appeal

- 7.2.1. In the first instance, I note that the applicants have requested that the Board dismiss this appeal as frivolous and vexatious and without substance in accordance with the provisions of the Planning and Development Act 2000 (as amended). This request is based on the applicant's opinion that the appellants have failed in their submission to make any meaningful comment on the proposed scheme.
- 7.2.2. Following consideration of the documentation lodged with the appeal and consideration of the relevant sections of the Planning and Development Act 2000 (as amended) I am satisfied that the appeals, lodged by Stephen Ward Town Planning and Development Consultants on behalf of Mr. Ronan Carr and Ms. Ina McCrumlish et al, would accord with the requirements of Section 127 of the Act. Furthermore, while I acknowledge that several issues raised in the grounds of appeal relate to

minor technical matters associated with the planning application and not to the works proposed under this application, I am satisfied that the documentation submitted is sufficient to form the basis of a valid appeal and therefore I do not recommend that the appeal(s) be dismissed.

#### Validity of the Planning Application

- 7.2.3. The Third-Party Appellants have raised various issues relating to the content and validity of the application. At the outset, I highlight that it is my opinion that procedural matters, such as a determination as to the adequacy (or otherwise) of the public notices and the validation (or not) of a planning application, are, generally, the responsibility of the Planning Authority, which in this instance took the view that the submitted documentation satisfied the minimum regulatory requirements. I would further highlight that the function and responsibilities of the Board do not extend to the role of Ombudsman.
- 7.2.4. In relation to the public notices, concerns are raised in relation to the number and location of site notices erected and in relation to the development description. As detailed on the site layout plan submitted with the application, two site notices were erected, one at the main entrance to the lands from Trinity Street and one along the site's southern boundary, the boundary addressing the Boyne River walkway. The submitted grounds of appeal argue that additional site notices should have been erected at the junction between Horse Lane and Trinity Street and at the point where the construction access road abuts the car park, to inform residents that the lane is to be used as a construction access road. It is further contended that the public notices are deficient in that they failed to adequately describe the proposed development. The board will note that in accordance with section 19(3) of the Planning and Development Regulations 2001 (as amended) the planning authority can require the applicant to erect further notices if deemed necessary, however, in this instance the planning authority considered the two notices erected to be sufficient. Notwithstanding, I am satisfied, on the basis of the documentation on file, that there would appear to be no evidence to suggest that the rights of any third party were compromised as a consequence of the absence of additional site notices. Furthermore, having reviewed the plans and particulars submitted with the

application, I am satisfied that the description of the subject proposal, which includes for '*all associated site development works*', provides for a sufficient and reasonable explanation of the nature and extent of the proposed works for the benefit / notification of third parties.

7.2.5. It is contended in the grounds of appeal that the proposed development involves works (construction of footpaths, temporary haul road etc...) on lands outside of the redline boundary, over which the applicant has no control and for which the Local Authority has not given consent. It is further contended that separate consents are required for these works and for the discharge of water to the river (foreshore licence). The application / red line site boundary encompasses c0.69ha of land, 0.63ha of which is said to be under the control of Louth County Council. I note that the planning authority, in their assessment of the application, states that the Council is agreeable to the making of the application. I further note that the applicants were requested at further information stage to submit a revised site layout plan showing all development and associated works within the redline of site. This request was fulfilled to the satisfaction of the Planning Authority. The documentation submitted in support of the application as lodged with the planning authority includes a letter from the Corporate Services Section of Louth County Council in which they confirm that they have control over the lands, and in which give consent for the inclusion of the two footpaths to facilitate access to the Boyne River walkway (riverwalk). Having regard to the above, I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application and decision. In any case this is a matter to be resolved between the parties having regard to the provisions of section 34(13) of the 2000 Planning and Development Act (as amended). Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal.

7.2.6. The grounds of appeal also refer to alleged inaccuracies, deficiencies, and omissions in planning application form and in the documentation submitted in support of the application. I have examined the application details and all documentation on file, and I am satisfied that there is sufficient information available to assess the proposed development and to make a determination. The following represents my de novo assessment of the application.

### 7.3. Zoning

- 7.3.1. The application / red line site boundary encompasses two land use zoning objectives as set out in the Louth County Development Plan 2021-2027 (LCDP), namely '*B1 Town or Village Centre*' with an objective to support the development, improvement and expansion of town or village centre activities and '*H1 Open space*' with an objective to preserve, provide and improve recreational amenity and open space.
- 7.3.2. The proposed residential units and their ancillary amenity / service areas are all located within the B1 zoning. 'Residential' is listed as a 'generally permitted use' within the B1 zoning. Furthermore, I note that the guidance for the B1 zoning as outlined in the plan explicitly encourages the appropriate reuse etc of back land, vacant, derelict, and underutilised lands for uses suitable to the location and states that such uses may include residential development. As the proposed development site comprises vacant lands to the rear of a row of existing dwellings, the development of these lands solely for residential use as proposed, is I consider acceptable and appropriate.
- 7.3.3. Some ancillary infrastructural works and services, including drainage pipes, footpaths, and a temporary haul road, are to be constructed on H1 open space lands. This is raised as an issue in the grounds of appeal where it is contended that the provision of such infrastructure works (temporary or otherwise) would materially contravene the H1 zoning objective. I disagree. While I accept that there may be some disruption to dedicated areas of public open space during the construction phase, I am of the opinion that any impacts arising would be minor and temporary in nature and that they could be effectively managed by way of a construction management plan. The proposal does include for the construction of footpaths, within the H1 zoning, linking the proposed development to the riverwalk. Walkways are listed as a generally permitted use within the H1 zone and the proposal does not include for the erection of any barriers or fencing that would restrict public access to these areas following construction.
- 7.3.4. In conclusion, I consider that the development of these lands as proposed would accord with the zoning objectives for the area.

#### **7.4. Layout and Visual Impact**

- 7.4.1. The appeal site comprises an area of vacant land to the rear of no's 29-32 Trinity Street, a terrace of single storey dwellings. The garden areas serving the residential properties of St. Anthony's and St. Michael's are located to the west and east (respectively). The lands back onto an area of public open space (riverwalk) that extends along northern bank of the Boyne River. The lands are steeply sloping and heavily overgrown with brambles and shrubs.
- 7.4.2. The proposal is for the construction of a detached two-storey dwelling house and a separate residential structure containing four apartments (two, two-bedroom duplex units above two, one-bedroom apartments). The primary access to the site is a graded pedestrian access from Trinity Street, via St. Anthony's. Provision for direct pedestrian access from the development to the riverwalk is also proposed.
- 7.4.3. The proposed scheme (as amended) ranges in height from 2 to 3 storeys reaching a maximum ridge level of 14.617m which, as detailed on the South Contiguous Elevation Drawing No: 14001-DAD-XX-A-XX-301 (submitted to the planning authority on the 24<sup>th</sup> November 2022), is below the ridge level of the adjoining single storey dwellings to the north and significantly below the ridge level of St. Michael's (No.27 Trinity Street). The proposed development is to be built into the site, necessitating ground works (cut and fill). A new retaining structure is to be constructed east/west across the site, thereby dividing the site into two tiers. The dwelling and duplex units are to be accessed from the upper tier while the one-bedroom apartments are to be accessed from the lower level. All proposed units have a southern aspect, overlooking the river.
- 7.4.4. The application is accompanied by a Design and Access Statement, 3D views, contiguous elevations, and site sections which I consider are adequate to facilitate assessment of the proposed scheme. Having considered the plans and particulars submitted with the application and having visited the site and the surrounding area, and I am satisfied that the proposed scheme in terms of its height, design, and layout provides an adequate response to the topography of the site and to its position on the river. I am further satisfied that the proposal would 'sit' appropriately within the

context of the site and adjacent properties and read as part of the established built-up area.

## **7.5. Residential Amenity**

- 7.5.1. The third-party appellants are of the opinion that the proposed development if permitted and constructed would severely compromise the residential amenity of neighbouring dwellings by way of visual intrusion, overshadowing and disturbance (from noise and light pollution) and nuisance (refuse storage). It is further contended that the proposal would provide a poor level of residential amenity for future occupants due, in particular, to a lack of adequate daylight and poor outlook.
- 7.5.2. While the impact of the proposal on the amenities of existing properties is a relevant consideration in this assessment, it is I consider important to note that any new development within established urban/ residential settings will alter the context of the site and the receiving environment and that a degree of impact on the amenities of existing properties is inevitable. I therefore submit that any impacts identified must be balanced against the need to develop infill sites to achieve compact growth in accordance with nationally adopted strategies.
- 7.5.3. The proposed residential units are set back within the site with separation distances of at least 7m from the northern boundary wall and 10m from the opposing single storey dwellings on Trinity Street. Due to the topography of the site and surrounding lands, the proposed development will sit below road level, consequently, the first floor of the proposed duplex units roughly aligns with the ground floor of the existing development on Trinity Street. The separation distances, level differences and existing boundary treatment between the proposed development and neighbouring properties, should be sufficient to ensure no undue impacts, by way of overlooking, overbearing or visual intrusion. The development of the appeal site for residential use as proposed should not in my opinion result in levels of noise or light pollution beyond what would normally be deemed appropriate within built-up areas. While I note that bin storage areas are located approximate to the sites northern boundary, the shared boundary with No's 29-32 Trinity Street, they will be out of sight of these

properties and with proper management, should not result in significant adverse impacts in terms of odour or vermin.

#### Daylight / Sunlight

7.5.4. Included with the application is a Daylight Analysis and Overshadowing Study prepared by H3D. This document, updated at further information stage, considers the level of daylight afforded to the proposed units, and the impact of the proposed scheme on the neighbouring properties to the north, 29-32 Trinity Street. In accordance with Section 13.8.10 of the LCDP, the assessment was prepared using methodology and guidance set out in BRE209 ‘*Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice*’ (2011), British Standard BS8206 Part 2, Lighting for Buildings, Code of Practice for Daylighting (2008) and the Design Standards for New Apartments – Guidelines for Planning Authorities (2018). While I note and acknowledge the publication of updated BRE209 guidance and updated Apartment guidelines in 2022 and the updated British Standard (BS EN 17037:2018 ‘Daylight in buildings’, which replaced the BS8206 2008 in May 2019 (in the UK), I am satisfied that this updated guidance does not have a material bearing on the outcome of the assessment.

7.5.5. The Building Research Establishments (BRE) ‘Site Layout Planning for Daylight and Sunlight – A guide to good practice’ provides a number of tests relevant to residential amenity (e.g., ADF, VSC, Sunlight to existing amenity space, Sunlight to adjoining property and APSH, etc.) to measure daylight, sunlight and overshadowing impact. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. The BRE guidelines also state in paragraph 1.6 that:

*“Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.”*

7.5.6. The BRE note in section 5, that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. In addition, industry professionals would need to consider various factors in determining an

acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones. The BRE guidelines state that in relation to daylight to existing buildings:

*“Loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. In these cases, the loss of light will be small...” (para. 2.2.4)”.*

7.5.7. Section 2 of Daylight and Overshadowing Analysis considers the Average Daylight Factor (ADF) for all habitable rooms proposed within the scheme. The Average Daylight Factor (ADF) is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. The BRE 209 Guidance with reference to BS8206 – Part 2, sets minimum values for ADF that should be achieved. These are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidelines notes that non-daylight internal kitchens should be avoided where possible, especially if the kitchen is used as a dining area too. If the layout means that a small, internal galley-type kitchen is inevitable, it should be directly linked to a well daylighted living room. This guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining (LKDs) layout. It does however, state that where a room serves a dual purpose the higher ADF value should be applied. The two one-bedroom apartment proposed within this scheme have combined LKDs and therefore consideration should be given to achieving the higher ADF target of 2% for these spaces.

7.5.8. Using the above targets, the applicants Daylight Study found that all occupiable rooms within the proposed scheme, would have adequate access to daylight, with all such rooms achieving ADF's of between 2.0%-8.5%. In addition, I note that the main living areas in all the proposed units are south facing, and that all units have the benefit of south facing private amenities areas. Having regard to the nature, scale, location, and orientation of the proposed development, I am satisfied that no further testing or analysis is required.

7.5.9. I am satisfied, on the basis of the information available, that the proposed scheme would achieve sufficient levels of daylight/sunlight to provide an adequate level of amenity for future residents.

7.5.10. Adjacent Residents:

7.5.11. In designing new development, it is important to safeguard the daylight to nearby buildings. Existing development in the vicinity of the site includes a row of single storey dwellings to the north (29-32 Trinity Street), each of these properties is served by a relatively small area of private amenity space (c20sqm), a wall separates these areas from the appeal site. The residential properties of St. Anthony's to the west and St. Michaels to the east are both served by large areas of private open space.

7.5.12. An analysis of the garden amenity spaces serving No's 29-32 Trinity Street was conducted in accordance with BRE's Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2011) which outlines that for a space to appear adequately sunlit throughout the year, at least half of the garden or amenity area should receive at least 2 hours of sunlight on the 21st of March. If as a result of new development an existing garden or amenity area does not meet the above, and the area that can receive two hours of sun on 21<sup>st</sup> March is less than 0.8 times of former value, then the loss of sunlight is likely to be noticeable. The Board will note that similar guidance is provided in the 2022 edition. The study found that on the 21st of March, all garden spaces either received the required amount of sunlight, or that existing levels were not reduced by more than 20%. The results indicate compliance with BRE recommendations. A Vertical Sky Component (VSC) analysis was also conducted on the rear windows and doors of houses 29-32 Trinity Street to ascertain if the access to sky was sufficient after the proposed development is built. The analysis confirmed that all windows either meet the required levels for VSC or are not 20% lower than the existing scenario thus passing the BRE Guidelines.

7.5.13. The Daylight Analysis and Overshadowing Study does not include an analysis of the potential impact of the proposed development on No.27 Trinity Street the adjoining residential property to the east, this is raised as a concern by the first-party appellant (Mr Ronan Carr) as part owner of the property. The appeal of Mr. Carr includes

commentary from CSC Consulting on the applicant's Daylight Analysis and Overshadowing Study. The Board will note that the commentary provided refers only to the content of the Daylight Analysis and Overshadowing Study and not to the analysis or to the results, nor does it suggest the potential for any adverse impacts.

7.5.14. Having regard to the design and layout of the proposed development, which is below neighbouring properties, including St. Michaels (No. 27 Trinity Street), I am satisfied, on the basis of the information available, that the proposed development would not unduly impact on the amenities of neighbouring by way of overshadowing or loss of light.

7.5.15. In conclusion I am satisfied that the development of this site as proposed would not unduly impact the residential amenities of adjoining properties.

#### **7.6. Residential Amenity – Future Occupants.**

7.6.1. The proposed development includes for the provision of one dwelling house and 4 no own door apartment units. The dwelling house, positioned on the western portion of the site, comprises a detached, three-bedroom structure that is designed as single storey to the front (north) and two-storey to the rear (south). The main living areas are at first floor level and are south facing overlooking the Boyne River. The dwelling is served by private amenity areas to the south and east as well as a first-floor balcony off the living room and separate roof terrace on its eastern elevation. It also has the benefit of an external store and a dedicated waste storage area to the north.

7.6.2. The proposed apartment units are contained in a separate three storey building to the east of the dwelling house. All units are dual aspect and have been designed to accord with the standards set out in Sustainable Urban Housing, Design Standards for New Apartments, Guidelines (DoEHLG, 2022) in terms of overall and aggregate floor areas, room widths storage, private amenity space and ceiling heights.

7.6.3. Each of the proposed units is provided with a south facing private amenity space in the form of a ground floor terrace or first floor balcony, accessed via the main living areas and overlooking the Boyne River. The two duplex units also have the added benefit of a ground floor terrace to the north. Separate storage facilities for refuse

and bulky items for each unit is provided in a communal area to the north. Provision is also made for bicycle storage. While no dedicated communal amenity space has been provided to serve the apartment units, I am satisfied that the quality and quantum of the private amenity areas provided with this scheme together within the sites proximity to public amenity areas would be sufficient to ensure that an adequate level of residential amenity is available for future occupants. As per section 13.8.15 of the LCDP, public open space is not required for developments of this scale.

- 7.6.4. Overall, I am satisfied that the design and layout of the proposed scheme would provide for an adequate level of privacy and amenity for future occupants. While I note that occupants of the scheme will be required to transfer household waste from allocated storage areas to Trinity Street for collection, I consider such arrangements as standard practice for development in urban areas.

## **7.7. Access and Parking**

- 7.7.1. Primary access to the site is proposed by way of a graded pedestrian pathway from Trinity Street, via St. Anthony's to the west. Pedestrian linkages between the proposed development and the riverwalk to the south are also proposed. The scheme once operational, will not be directly accessible to vehicular traffic and no car parking is proposed. It is contended in the grounds of appeal that the complete absence of any on-site parking for the proposed development has not been justified and would endanger public safety by reason of traffic hazard, give rise to congestion, dangerous manoeuvring and interfere with the free flow of traffic in the area. Concerns have also been raised in relation to the proposed haul route during construction.
- 7.7.2. The car parking standards set out in Section 13.16.12 of the LCDP 2021-2027 require 1 space per apartment in town centres (Area 1); however, a reduction in this standard is acceptable in certain circumstances. Regard is had to the new Sustainable and Compact Settlement Guidelines (2024) which under SPPR 3 – Car Parking, sets maximum parking rates for new residential developments. The guidelines state that car parking ratios should be reduced at all urban locations, and should be minimised, substantially reduced, or wholly eliminated at locations that

have good access to urban services and to public transport. The proposal for consideration by the Board, represents a small residential scheme on a restricted site, in the centre of Drogheda and within walking distance of the retail core area and a range of services and amenities. The area is well served by public transport and public parking facilities are available in the vicinity. The proposal includes storage for 8 no. bicycles for the apartment units, which would accord with SPPR 4 of the Guidelines, and which would promote sustainable transport modes. Having regard to the above I am satisfied that the appeal site is suitable for a car-free development. I do not anticipate that such a proposal would give rise to a traffic hazard.

- 7.7.3. An outline Construction Management Plan has been submitted within the application. This document includes proposals for the management of traffic during the construction phase. During construction, access to the site will be from Trinity Street level and from the riverside level via Horse Lane to the east. A temporary haul route is to be constructed from the lower end of Horse Lane connecting to the southwest corner of the site, crossing lands to the rear (south) of St Michaels. The temporary haul road comprises blinded compacted hardcore filling on a geotextile membrane, the area is to be fenced off during construction. It is anticipated that construction traffic will pass to the north of the existing row of trees which run east-west and parallel to the temporary access road. These trees are identified in the OCMP as a valued amenity and are to be protected during construction.
- 7.7.4. It has been contended in the grounds of appeal that the construction of the haul road has the potential to impact on existing Irish Water (Uisce Eireann) Infrastructure in the vicinity; however, the Board will note that Uisce Eireann were consulted at application stage and that they raised no objection to the proposal. It is further contended in the appeal of Mr. R. Carr, that the construction of the haul route would 'cut-off' access from St Michaels to the public park (river walk), severely impacting the enjoyment of the property. It would appear from site inspection that access to the park is available from the rear of St. Michaels (through a padlocked gate in the boundary fencing) however from visual inspection this access would not appear to be widely used and I note that occupants of St. Micheals are not wholly reliant upon this gate to access the park, with alternative access available via Horse Lane. Therefore, I do not recommend that permission be refused on this basis. Any issues

arising regarding rights of access etc are I consider legal matters between parties and need not concern the Board for the purpose of this appeal.

#### **7.8. Flood Risk:**

- 7.8.1. A Site-Specific Flood Risk Assessment Accompanies the application. This document was prepared having regard to “The Planning System and Flood Risk Management - Guidelines for Planning Authorities” (2009). The site is not at risk of pluvial, tidal or groundwater flooding. The primary flood risk to the proposed development site can be attributed to a fluvial flood event in the River Boyne. Secondary flood risks can be attributed to a potential surcharge of urban drainage in the vicinity of the site and blockage at the adjacent bridge, however the risk from these latter two events is considered low. To mitigate any potential risk from fluvial flooding, the FFL’s of proposed structures are to be constructed above the predictive 0.1% AEP (1 in 1,000 year) flood event. Compensatory flood storage is also proposed to compensate for 0.1% AEP (1 in 1,000 year) flood waters that may be displaced due to the development. I am satisfied based on the information available that the development of this site as proposed is acceptable from a flood risk perspective.

#### **7.9. Environmental Impact Assessment:**

- 7.9.1. It is contended in the grounds of appeal that the proposed development requires a formal EIA determination. The proposed development falls within the category of ‘Infrastructural Projects’, under Schedule 5, Part 2 of the Planning and Development Regulations 2001 (as amended), where mandatory EIA is required in the following circumstances:

10(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.

- 7.9.2. The number of dwelling units proposed at 5 is significantly below the threshold of 500 dwelling units noted above. With a site area of 0.069 hectares, located in the

built-up area of Drogheda, it is also materially below the applicable threshold of 10 hectares.

7.9.3. As per section 172(7)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1- or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Planning Authority determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

7.9.4. Having regard to the nature, size, and location of the proposed development and to the criteria set out in schedule 7 of the regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required. (See completed Form 2 on file).

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

7.10.1. The Habitats Directive deals with the conservation of Natural Habitats and of wild fauna and flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

7.10.2. The application was accompanied by an NIS which was updated at RFI Stage to address issues raised by the planning authority in their initial assessment of the application. Regarding the NIS, the planning authority were not satisfied that potential impacts arising from certain development works, namely, the construction of the temporary haul route, the new surface water outfall pipe, and footpaths, had

been adequately considered and that it was not possible to determine if and what mitigation measures would be appropriate. The need for mitigation to address risks of contamination from herbicides was also raised. Further information was revised by the planning authority on 24<sup>th</sup> of November 2022 and was deemed to be adequate to carry out a Stage 2 Appropriate Assessment. The planning authority concluded that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity a European site.

7.10.3. However, the grounds of appeal identify perceived deficiencies in the application and in the updated NIS which they argue precludes the Board from granting planning permission. It is contended that the NIS fails to acknowledge that works are to be undertaken outside of the 'redline' area and on lands within the River Boyne and Blackwater SAC, stating instead that '*...the boundary of the NIS is located 3m south of the site boundary at its closets point*'. It is further contended that the updated NIS fails to adequately consider and mitigate potential impacts arising during the construction and operational phases.

7.10.4. I have reviewed the plans and particulars submitted with the application and appeal, including the updated NIS and it would appear from the information available on file and from the EPA' AA Tool, [EPA Maps](#), that the proposed development does include works on lands within the River Boyne and River Blackwater SAC and that this has not explicitly stated in the NIS. Notwithstanding, I am satisfied that the works in question and the potential impacts arising from same, have been adequately considered in the updated NIS. Regard is had to page 3 of the NIS (Executive Summary) in which it states that it is feasible to protect water quality in the adjoining River Boyne during construction phase using standard best practice mitigation measures.

7.10.5. I am satisfied that the updated NIS provides adequate information in respect of the proposed project and the baseline conditions, that it clearly identifies the potential impacts, and is based on best scientific information and knowledge. Overall, I am satisfied that the information is sufficient to allow the Board to carry out appropriate assessment of the proposed development.

## **Appropriate Assessment – Stage 2**

7.10.6. Following the screening process (set out in Appendix 3 attached) it has been determined that Appropriate Assessment is required as it cannot be excluded, on the basis of objective information, that the proposed development individually will have a significant effect on the following European sites:

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

The possibility of significant effects on other European sites has been excluded on the basis of objective information. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

7.11. As previously noted, the application was accompanied by an NIS, updated at RFI Stage. It is the updated NIS that forms the basis of my assessment. The updated NIS includes in appendix 2 details of the proposed surface water attenuation system and in appendix 3 a Treatment Recommendations Report – Japanese Knotweed. Also included in the application is a Bat Survey, Winter Bird Survey, A Site-Specific Flood Risk Assessment, and an Outline Construction Management Plan.

7.12. The NIS examines and assesses potential adverse effects of the proposed development on the River Boyne and River Blackwater SAC, Boyne Coast and Estuary SAC and the Boyne Estuary SPA. The NIS identifies the main potential impacts from the proposed development as impacts on water quality during the construction and operational phases, disturbance and spread of invasive plant species. Qualifying interests affected by water quality were identified as River Lamprey, Salmon, Otter, Wetlands and Waterbirds, Shelduck, Oystercatcher, Golden Plover, Grey Plover, Lapwing, Knot, Sanderling, Black-tailed Godwit, Redshank, Turnstone, Little Tern, Estuaries, Mudflats and sandflats, Salicornia mud and Atlantic Salt meadows. River Lamprey, Salmon, Otter, also have the potential to be also affected by the spread of invasive species while Otters have the potential to be affected by construction phase disturbance or operational phase lighting impacts.

7.13. Regarding in-combination effects, the NIS, in section 6, notes that there are several developments within the vicinity of the site, varying from small scale residential

changes, retentions for small structures as well as walkways and public amenities. Of note is an extant permission for an 11- story over basement apartment scheme downstream of the site at Trinity St. (permitted under LCC Ref: 20/763). This project was subject to appropriate assessment, and as I observed during site inspection, is under construction and nearing completion. The report found that the proposed development has potential to result in cumulative impacts on water quality and invasive species. Due to the distance from the proposed development site and important habitats for birds as well as the urban nature of the site no significant cumulative impacts relating to disturbance are expected to arise. The report recommends mitigation measures to offset and minimize the potential significant effects on European sites.

7.14. Mitigation

7.15. In addition to compliance with standard best practice construction methods, the NIS details in Section 7 recommended mitigation measures for both the construction and operational phases of the proposal. The report recommends that a site-specific Construction Environmental Management Plan and Method Statement be drawn up prior to the commencement of development. The CMEP shall detail precisely how the project is to be carried out in accordance with the recommended mitigation measures. The CEMP, will be prepared using best practice and will include: Surface Water Management Plan, Invasive Species Management Plan, and a Waste Management Plan.

7.16. The measures are summarised below:

*Avoidance:*

- Fencing (high hoarding) is to be used to delineate the works area and site access and to help reduce dust impacts.
- Construction works should be limited to daylight hours to avoid disturbance to nocturnal animals.
- Site clearance and vegetation removal undertaken outside of the bird nesting season.
- High noise equipment should be fitted out to reduce noise disturbance. Loud equipment to be avoided where possible or else fitted with damping materials, mufflers, or enclosures.

- No artificial lighting is expected.

*Water Quality Protection:*

- The site compound will have silt fences and high boarding and if feasible bunding to prevent run-off.
- Any concrete / cement mixing will be carried out within a mixing area and will be control by the contractor with all wash water, tool washings and any waste/grey water stored securely and removed.
- Any waste material will be stored on site only temporarily and will be covered to prevent run-off.
- In terms of welfare facilities for employees, portaloos should be provided and regularly maintained by a licensed facility, all sewage removed from the site to an authorized facility. An emergency response plan shall be included as part of the CEMP.
- Construction to take account of weather conditions during any site clearance, excavation, or leveling works to reduce potential for site run-off.
- Subsoil layer exposure to the effects of weather is to be minimized.
- A 5-day weather window prior to any site clearance works will be agreed in advance of works.
- All oils, fuels, paints, and other chemicals will be stored in a secure area in bunded tanks within the site compound.
- Any machinery operating on site will be checked for leaks.
- All re-fueling or servicing of machinery will take place within the site compound.
- A response procedure will be put in place to deal with any accidental pollution events.
- Spill kits will be available.
- Disturbed sub-soil layers will be stabilised as soon as practicable.
- Any stockpiles will be covered and protected with sediment filter sock to base for the duration of the works.
- Stockpiles will not be located in areas where sediment laden runoff may enter any water body and will also be located so as not to necessitate double handling.

- Silt fences will be used on the site and maintained throughout the construction phase. The fence should be regularly inspected and repaired / replaced when necessary.
- Sediment buildup should be removed whenever it reaches 1/3 to halfway up the fence to ensure it continues functioning effectively.
- Operational phase - The attenuation tank and hydro brake system for the operational phase of the proposed development will be regularly maintained and serviced as per the manufacturer's instructions.

#### *Waste Management.*

- SuDS drainage principles should be considered and applied to surface water management as is standard best practice.
- A waste Management Plan is to be prepared. Prior to site clearance, waste will be categorised as hazardous or non-hazardous according to EPA European waste catalogue January 2022. Hazardous waste material if recorded will be removed in accordance with a soil management and removal plan, prepared by a suitably qualified environmental specialist.
- Monthly waste management site reports will be prepared by the contractor.
- Waste on site will be segregated into appropriate categories. All waste material will be stored in skips or other suitable receptacles in designated areas off the site. Waste being removed from the site will be recycled or reused where possible. Waste leaving the site will be transported via a suitably permitted contractor and will be transported to a suitably licensed or permitted facility. Waste which is leaving the site will be recorded and documentation will be maintained on site.
- Operational Phase: Typical household waste is expected to arise from the operational phase of the proposed development. Dedicated waste collection areas will be established, and general household waste will be segregated in these areas. Bins containers will be clearly labeled and color-coded in order to avoid cross contamination of different waste streams. Waste will not be dumped outside the site boundary.

#### *Biosecurity and Invasive Species Plan:*

- The invasive species management plan will contain all relevant information relating to the site and invasive species this includes the removal of invasives already present and the prevention of further spread or introduction of other species on site during the construction phase.
- Bio security measures will follow NRA guidelines.
- Removal of existing invasives on site will be carried out by an expert in invasive species removal.
- Equipment and machinery must be cleaned thoroughly off-site before entering the site.

#### *Landscaping:*

- Planting and landscaping on site will endeavor to use native species only. Any herbicides/weed killer will be an ecologically safe product. Waste from landscaping will be appropriately dealt with away from any watercourse.

#### *Operational Phase Lighting:*

- There will be no additional light spill onto the estuary as a result of the proposed development. Any proposed artificial lighting will be designed to minimise any potential light spill. Mercury or metal halide lamps should be avoided with low pressure sodium lighting preferred if lighting is necessary. Restrictions may be considered during dark hours.

#### *Wastewater Treatment:*

- A pre connection agreement must be in place with Irish water prior to the commencement of the development. Irish water must ensure that adequate treatment is available for the proposed development at Drogheda WWTP.

#### Residual Effects

7.17. On foot of the employment of mitigation measures no adverse effects on the qualifying interests of River Boyne and River Blackwater SAC (Site Code 002299); Boyne Estuary SPA (Site Code 004080); Boyne Coast and Estuary SAC (Site Code 001957); River Boyne and River Blackwater SPA (Site Code 004232) and North-West Irish Sea SPA (Site code 004236) are anticipated.

#### Conclusion

7.18. Having reviewed the information submitted by the applicant, I am satisfied that potential impacts from the proposed development on water quality during the construction and operational phases, disturbance and spread of invasive plant species have been adequately addressed in the NIS. I am therefore satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of the European sites in light of their conservation objectives (subject to the implementation of mitigation measures outlined above).

AA Conclusion:

7.19. Having regard to the nature, scale and location of the proposed works which are partially located in the River Boyne and River Blackwater SAC (Site Code 002299) and in close proximity to Boyne Estuary SPA (Site Code 004080); Boyne Coast and Estuary SAC (Site Code 001957); I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the aforementioned European sites, or any other European site, in view of the sites' Conservation Objectives.

My conclusion is based on:

- Detailed assessment of all aspects of the proposed development that could result in significant effects or adverse effects on European Sites within a zone of influence of the development site.
- Consideration of the conservation objectives and conservation status of qualifying interest species and habitats.
- A full assessment of risks to special conservation interest bird species and qualifying interest habitats and species.
- Application of mitigation measures designed to avoid adverse effects on site integrity and likely effectiveness of same.
- Consideration and assessment of in-combination effects with other plans and projects.

- The proposed development, alone and in combination with other plans and projects, would not undermine the favourable conservation condition of any qualifying interest feature or delay the attainment of favourable conservation condition for any species or habitat qualifying interest for these European sites.

## **8.0 Recommendation**

I recommended that permission be granted for the proposed development subject to condition.

## **9.0 Reasons and Considerations**

Having regard to:

- (a) National and local policy objectives which support the development of infill/brownfield sites in achieving compact growth,
- (b) Section 28 Ministerial Guidelines on Sustainable Residential Development and Compact Settlement (2024) and Design Standards for New Apartments (2023),
- (c) the zoning objectives pertaining to the site, as set out in the Louth County Development Plan 2021 -2027,
- (d) the location of the site within a well serviced urban area in close in proximity to the Drogheda Town centre and where public transport is available,
- (e) The Pattern of development in the area, and the nature, scale and design of the proposed development,

It is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would provide an adequate level of residential amenity for future residents, would not seriously injure the residential or visual amenities of the area, and would be acceptable in terms of the safety and convenience of pedestrians and road users. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 15<sup>th</sup> of July 2022 and as amended by further plans and particulars received on the 24<sup>th</sup> of November 2022 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity

2. The Mitigation measures as set out in Section 7 of the Natura Impact Statement received by the planning authority on the 24<sup>th</sup> of November 2022, shall be fully adhered to.

**Reason:** To avoid any potential harmful effects to designated European Sites

3. Knotweed shall be eradicated from the site prior to the commencement of site development works in accordance with the Treatment Recommendations Report prepared by Knotweed Control Ireland and submitted with the application.

**Reason:** To prevent the spread of this non-native evasive species

4. (a) The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved

landscaping scheme shall be implemented fully in the first planting season following each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

**Reason:** In the interests of residential and visual amenity

5. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any residential unit.

**Reason:** In the interests of amenity and public safety.

6. Prior to the commencement of development details of the materials, colours and textures of all the external finishes to the proposed buildings and surface materials shall be submitted for written agreement of the planning authority.

**Reason:** In the interest of visual amenity.

7. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme.

**Reason:** In the interests of amenity.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing overground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

9. Prior to the commencement of development, the developer shall enter into water and waste-water connection agreements with Uisce Eireann (Irish Water).

**Reason:** In the interest of public health.

10. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interests of public health

11. Site development and building works shall be carried out only in daylight hours and between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity and to avoid any potential harmful effects to designated European Sites

12. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall adhere to the mitigation measures as set out in Section 7 of the Natura Impact Statement received by the planning authority on the 24<sup>th</sup> of November 2022, and shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;

- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of car parking facilities for site workers during the course of construction
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage,
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for

inspection by the planning authority.

**Reason:** In the interest of amenities, public health and safety.

13. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment

14. Following the completion of the development and prior to occupation of any residential unit (unless an alternative timeframe is agreed in writing with the planning authority), the temporary haul road area shall be reinstated to its current condition and seeded, and any trees damaged during construction along the riverside walk shall be replaced. The above works shall be completed to the satisfaction of the planning authority.

**Reason:** In the interest of orderly development.

15. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of

development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

16. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

17. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

18. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application or the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be

applied to the permission.

*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.*

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Lucy Roche  
Planning Inspector

27<sup>th</sup> May 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	315784-23		
<b>Proposed Development Summary</b>	Residential scheme of 5 units, pedestrian access, and site development works.		
<b>Development Address</b>	Lands to the rear of 29-32 Trinity Street, Drogheda, Co. Louth		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>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?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X	The development involves 5 no. residential units on an overall site of c. 0.069ha. It is therefore considered that it does not fall within the above classes of development and does not require mandatory EIA.	Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	X	Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is	Proceed to Q.4

		<p>required for the following classes of development:</p> <p>Construction of more than 500 dwelling units</p> <p>Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)</p>		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	315784-23	
<b>Proposed Development Summary</b>	Residential scheme of 5 units, pedestrian access, and site development works.	
<b>Development Address</b>	Lands to the rear of 29-32 Trinity Street, Drogheda, Co. Louth	
<p>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.</p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></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>	<ul style="list-style-type: none"> <li>The subject site is located within the urban area of Drogheda and within walking distance of the core retail area and all associated services and amenities. The area is well served by public transport and social infrastructure. The site is served by public mains, water and sewerage.</li> <li>Development within the immediate vicinity of the site is primarily residential. Development on this site would read as part of the built-up area. The proposed residential scheme would not be exceptional in the context of the existing environment.</li> <li>Localised construction impacts will be temporary.</li> <li>The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing / development in the area.</li> </ul>	No
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<ul style="list-style-type: none"> <li>Permission is sought for the construction of 5 residential units on an overall site area of 0.69ha. The size of the development is not exceptional in the context of the existing built-up urban environment.</li> <li>Given the nature, scale and location of the proposed within an established urban area, no significant cumulative impacts are anticipated.</li> </ul>	no

Are there significant cumulative considerations having regard to other existing and/or permitted projects?	<ul style="list-style-type: none"> <li>The apartment scheme permitted under LCC Reg. Ref: 20763 (approx. 200m to the southeast) is at an advanced stage of construction. Should construction of the project commence in advance of its competition, cumulative impacts could be effectively managed by way of an agreed construction management plan. An outline Construction Management Plan accompanies the application.</li> </ul>	
<p><b>Location of the Development</b></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 environmental sensitivities in the area?</p>	<ul style="list-style-type: none"> <li>The subject site adjoins the River Boyne, designated as a SAC (River Boyne And River Blackwater SAC, site code 002299).</li> <li>There are also several designated sites within wider geographic area. Any issues arising from the proximity /connectivity to a European Site can be adequately dealt with under the Habitats Directive.</li> <li>The application is supported by Bat and Winter Birds Surveys.</li> </ul>	no
<b>Conclusion</b>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>		

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

DP/ADP: \_\_\_\_\_ Date: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)

## Appendix 3 – AA Screening Determination

### Screening for Appropriate Assessment Screening Determination

#### Step 1: Description of the project

I have considered the proposed residential scheme in light of the requirements of S177U of the Planning and Development Act 2000 as amended. The application was accompanied by an NIS which provides a description of the project and receiving environment. An updated NIS was submitted at RFI Stage, and this report forms the basis of my assessment.

The proposed development site is located within the urban area of Drogheda and comprises vacant lands to the rear of No's 29-32 Trinity Street. The lands back onto an area of public open space (riverwalk) that extends along northern bank of the Boyne River. The Boyne River is tidal at the site and is therefore called the Boyne Estuary. The Boyne River at the location of the subject site has been designated as an SAC (River Boyne and River Blackwater SAC). The Boyne Estuary SPA and the Boyne Coast and Estuary SAC are located downstream of the site at a distance c2.7km and c3.9km respectively. The River Boyne SPA is located c2.5km upstream of the site. Sites in the wider area include the North-West Irish Sea SPA, c9km to the east (offshore) and the River Nanny Estuary and Shore SPA, c8km to the southeast.

The site itself is steeply sloping and heavily overgrown with brambles and shrubs. Japanese Knotweed (high risk invasive species) has been identified within the site, along the northern boundary (approx..45sqm). A treatment plan has been included as part of the application. Buddleia (medium-low risk invasive species) has also been identified.

The proposal is for the construction of five residential units (1 dwelling and four apartments). The primary access to the site is a graded pedestrian access from Trinity Street, via St. Anthony's, the adjoining residential property to the west. Provision for direct pedestrian access (footpaths) from the development to the Boyne riverwalk is also proposed. The development of the site will require vegetation to be cleared, the excavation and offsite disposal of invasive species, refuse and litter, along with the excavation and removal of some 1000 cubic metres of soil. The proposed development is to be built into the site, necessitating ground

works (cut and fill) including the removal of some 1000 cubic metres of soil and the construction of retaining structures. Separate waste storage facilities for each unit are proposed to the north of the site. A new foul drain will connect to an existing manhole to the southeast of the site, serving the Drogheda WWTP which discharges directly to the Boyne Estuary SPA and Boyne Coast and Estuary SAC, c4km downstream of the subject site. The proposal includes for an on-site attenuation tank (10.3m<sup>3</sup> volume) with a hydro brake flow control to restrict outflow from the site to 2l/s during a 1:100-year storm and interceptor.

No standalone Stage 1 Screening Assessment has been submitted with the application; however, Figure 1 of Section 1.1 of the NIS identifies six European Sites with a 15km radius of the subject site. The Report predicts the potential impacts for River Boyne and River Blackwater SAC, The Boyne Estuary SAC and the Boyne Coast and Estuary SAC and their conservation objectives.

#### **Step 2: Potential impact mechanisms from the project.**

The proposed scheme includes infrastructural works on lands within the River Boyne and River Blackwater SAC comprising the provision of a temporary haul road (for site clearance and construction), the construction of a new foul drain connecting to the existing manhole to the southeast of the site, the construction of a 225mm surface water outfall pipe with discharge to the river and the construction of two, 1.5m wide pedestrian footpaths across a grassed area and connecting to the riverwalk. The proposal has the potential to result in species disturbance / displacement during construction. Outside of the construction phase, no barriers or obstructions are to be erected within the SAC. The proposed footpaths are to be constructed across a grassed area on lands within the SAC however, I am satisfied that this would not have any significant impact in terms of loss of habitat / feeding ground. I note that these works are within an urban area and on lands adjacent to an established riverwalk.

Sources of indirect impacts / effect mechanism include:

- Construction phase water quality impacts: – Deterioration of water quality due to the release of silt and sediment from the site / development area during site clearance/preparation and construction and the release of construction related compounds such as hydrocarbons to surface water. Wet conditions / periods of heavy rainfall are likely to contribute to increased sediment load etc. to receiving water.
- Operational phase water quality impacts resulting in changes to environmental conditions such as water quality/ habitat degradation.
- Operational Phase lighting Impacts resulting in disturbance and displacement effects to QI species.
- Spread of invasive species including Japanese Knotweed which has been recorded on the development site.

### Step 3: European Sites at risk

With reference to the potential impact mechanisms from the proposal, identify the European site(s) and qualifying features potentially at risk. Examine Site specific conservation objectives and relevant and supporting documents.

**Table 1 European Sites at risk from impacts of the proposed project**

Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
A - Disturbance /displacement during construction	Works adjacent to and on lands along the northern bank of the Boyne Estuary.	River Boyne and River Blackwater SAC	<ul style="list-style-type: none"> <li>• Otter <i>Lutra lutra</i></li> </ul>
B- Construction Phase Water Quality - Deterioration of water quality siltation via surface water, construction related pollutants	Works adjacent to and on lands along the northern bank of the Boyne Estuary,	River Boyne and River Blackwater SAC  The Boyne Estuary SPA and  The Boyne Coast and Estuary SAC	Annexed species that are freshwater dependent.  Potential for significant effects on water quality resulting is a risk to the integrity of Annex 1 habitats at and downstream of the site.

C - Operational phase water quality	Works adjacent to and on lands along the northern bank of the Boyne Estuary, Foul and surface water drainage connections	River Boyne and River Blackwater SAC  The Boyne Estuary SPA  The Boyne Coast and Estuary SAC	Annexed species that are freshwater dependent.  Potential for significant effects on water quality resulting is a risk to the integrity of Annex 1 habitats at and downstream of the site/ point of discharge.
D- Operational Phase lighting impacts	Works adjacent to and on lands along the northern bank of the Boyne Estuary	River Boyne and River Blackwater SAC	<ul style="list-style-type: none"> <li>• Otter <i>Lutra lutra</i></li> </ul>
E - Spread of invasive species	Works adjacent to and on lands along the northern bank of the Boyne Estuary	River Boyne and River Blackwater SAC  The Boyne Estuary SPA	<ul style="list-style-type: none"> <li>• Annex 1 habitats in the vicinity of the proposed works</li> <li>• River Lamprey <i>Lampetra fluviatile</i></li> <li>• Salmon <i>Salmo salar</i></li> <li>• Otter <i>Lutra lutra</i></li> <li>• Wetlands and Waterbirds</li> </ul>

Three sites have been identified as being at risk from the proposed development, namely the River Boyne and River Blackwater SAC at the location of the site, and the Boyne Estuary SPA and Boyne Coast and Estuary both of which are located downstream of the site at a distance c2.7km and c3.9km respectfully.

Potential impacts on the River Boyne SPA can be excluded by virtue of its location upstream and at a distance from the project. Similarly potential impacts on the North-West Irish Sea SPA, and the River Nanny Estuary and Shore SPA, can be excluded by virtue of separation distance and dilution factor, together with nature and scale of the development proposed.

#### Step 4: Likely significant effects on the European site(s) 'alone'

**Table 2: Could the project undermine the conservation objectives 'alone'**

European Site and qualifying feature	Conservation objective (summary)  (Please refer to NPWS - Site Specific Conservation objectives for full list and details - links provided)	Could the conservation objectives be undermined (Y/N)?				
		Disturbance	Cont. Water Quality	Operational Water	Operational Lighting	Invasive Species
River Boyne and River Blackwater SAC	<a href="#">CO002299.pdf (npws.ie)</a>					
River Lamprey <i>Lampetra fluviatile</i>	Restore FCS: <ul style="list-style-type: none"> <li>• Distribution: Restore access to all water courses down to first order streams - Distribution of larvae: Not less than 50% of sample sites with suitable habitat positive for larval brook/river lamprey</li> <li>• Restore access to all water courses down to first order streams No decline in extent and distribution of spawning and nursery beds</li> <li>• Population structure of larvae: At least three age/size classes of larval brook/river lamprey present</li> <li>• Larval lamprey density in fine sediment: Mean density of brook/river larval lamprey in sites with suitable habitat more than 5/m<sup>2</sup></li> <li>• Extent and distribution of spawning nursery habitat: No decline in extent and distribution of spawning and nursery beds</li> </ul>	N	Y	Y	N	Y
Salmon <i>Salmo salar</i>	Restore FCS: <ul style="list-style-type: none"> <li>• Distribution: extent of anadromy: 100% of river channels down to second order accessible from estuary,</li> <li>• Adult spawning fish: Conservation limit (CL) for Adult spawning fish for each system consistently exceeded</li> <li>• Salmon fry abundance: Maintain or exceed 0+ fry mean catchment-wide abundance threshold value. Currently set at 17 salmon fry/5 minutes sampling</li> <li>• Out-migrating smolt abundance: No significant decline</li> <li>• Number and distribution of redds: No decline in number and distribution of spawning redds due to anthropogenic causes</li> <li>• Water quality: At least Q4 at all sites sampled by EPA</li> </ul>	N	Y	Y	N	Y

Otter <i>Lutra lutra</i>	<p>Maintain FCS:</p> <ul style="list-style-type: none"> <li>• Distribution: No significant decline in distribution</li> <li>• Extent of terrestrial habitat: No significant decline. Area mapped and calculated as 447.6ha along river banks/ lake shoreline/around ponds</li> <li>• Extent of freshwater (river) habitat: No significant decline. Length mapped and calculated as 263.3km - Extent of freshwater (lake) habitat: No significant decline. Area mapped and calculated as 31.6ha</li> <li>• Couching sites and holts: No significant decline in couching sites and holts</li> <li>• Fish biomass available: No significant decline in fish biomass</li> <li>• Barriers to connectivity: No significant increase in barriers to connectivity</li> </ul>	Y	Y	Y	Y	Y
Alkaline fens	<p>Maintain FCS:</p> <ul style="list-style-type: none"> <li>• Habitat area stable or increasing, subject to natural processes.</li> <li>• No decline to habitat distribution, subject to natural processes</li> <li>• Ecosystem function: soil nutrients: Maintain soil pH and nutrient status within natural ranges.</li> <li>• Ecosystem function: peat formation: Maintain active peat formation, where appropriate</li> <li>• Ecosystem function: hydrology - groundwater levels: Maintain, or where necessary restore, appropriate natural hydrological regimes necessary to support the natural structure and functioning of the habitat.</li> <li>• Ecosystem function: hydrology - surface water flow: Maintain, or where necessary restore, as close as possible to natural or semi-natural, drainage conditions.</li> <li>• Ecosystem function: water quality:</li> <li>• Maintain appropriate water quality, particularly pH and nutrient levels, to support the natural structure and functioning of the habitat.</li> <li>• Vegetation composition: community diversity: Maintain variety of vegetation communities, subject to natural processes.</li> </ul>	N	N	N	N	N

	<ul style="list-style-type: none"> <li>• Vegetation composition: typical brown mosses: Maintain adequate cover of typical brown moss species.</li> <li>• Vegetation composition: typical vascular plants: Maintain adequate cover of typical vascular plant species.</li> <li>• Vegetation composition: native negative indicator species: Cover of native negative indicator species at insignificant levels</li> <li>• Vegetation composition: non-native species: Cover of non-native species less than 1%</li> <li>• Vegetation composition: native trees and shrubs: Cover of scattered native trees and shrubs less than 10%</li> <li>• Vegetation composition: algal cover: Cover of algae less than 2%</li> <li>• Vegetation structure: vegetation height: At least 50% of the live leaves/flowering shoots are more than either 5cm or 15cm above ground surface depending on community type</li> <li>• Physical structure: disturbed bare ground: Cover of disturbed bare ground not more than 10%</li> <li>• Physical structure: tufa formations: Disturbed proportion of vegetation cover where tufa is present is less than 1%</li> <li>• Indicators of local distinctiveness: No decline in distribution or population sizes of rare, threatened or scarce species associated with the habitat; maintain features of local</li> </ul>					
<i>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)*</i>	<p>Restore FCS.</p> <ul style="list-style-type: none"> <li>• Habitat area stable or increasing, subject to natural processes.</li> <li>• No decline in habitat distribution, subject to natural processes.</li> <li>• Woodland size area stable or increasing. Where topographically possible, "large" woods at least 25ha in size and "small" woods at least 3ha in size</li> <li>• Woodland structure: cover and height :Total canopy cover at least 30%; median canopy height at least 7m; native shrub layer cover 10-75%; native herb/dwarf shrub layer cover at least 20% and height at least 20cm; bryophyte cover at least 4%</li> </ul>	N	N	N	N	N

	<ul style="list-style-type: none"> <li>Woodland structure: community diversity and extent: Maintain diversity and extent of community types</li> <li>Woodland structure: natural regeneration: Seedlings, saplings and pole age-classes of target species for 91E0* woodlands and other native tree species occur in adequate proportions to ensure survival of woodland canopy</li> <li>Hydrological regime: flooding depth/height of water table: Appropriate hydrological regime necessary for maintenance of alluvial vegetation</li> <li>Woodland structure: dead wood: At least 19 stems/ha of dead wood of at least 20cm diameter</li> <li>Woodland structure: veteran trees: No decline in woodland structure</li> <li>Woodland structure: indicators of local distinctiveness: No decline in distribution and, in the case of red listed and other rare or localised species, population size</li> <li>Woodland structure: indicators of overgrazing: All five indicators of overgrazing absent</li> <li>Vegetation composition: native tree cover: No decline. Native tree cover at least 90% of canopy; target species cover at least 50% of canopy</li> <li>Vegetation composition: typical species: At least 1 target species for 91E0* woodlands present; at least 6 positive indicator species for 91E0* woodlands present</li> <li>Vegetation composition: negative indicator species: Negative indicator species cover not greater than 10%; regeneration of negative indicator species absent</li> <li>Vegetation composition: problematic native species: Cover of common nettle (<i>Urtica dioica</i>) less than 75%</li> </ul>					
<b>The Boyne Coast and Estuary SAC</b> <a href="#">pdf</a> <a href="#">(irishstatutebook.ie)</a>	<a href="#">Site specific cons obj (npws.ie)</a>					
Estuaries	Maintain FCS: <ul style="list-style-type: none"> <li>Habitat area: The permanent habitat area is stable or increasing, subject to natural processes. See map 3</li> </ul>	N	Y	Y	N	N

	<ul style="list-style-type: none"> <li>Community distribution: Conserve the following community types in a natural condition: Intertidal estuarine mud and fine sand with Hediste diversicolor and Corophium volutator community; and Subtidal fine sand dominated by polychaetes community. See map 5</li> </ul>					
Mudflats and sandflats not covered by seawater at low tide	Maintain FCS: <ul style="list-style-type: none"> <li>Habitat area: The permanent habitat area is stable or increasing, subject to natural processes. See map 4</li> <li>Community distribution: Conserve the following community types in a natural condition: Intertidal estuarine mud and fine sand with Hediste diversicolor and Corophium volutator community; and Fine sand dominated by bivalves community complex. See map 5</li> </ul>	N	Y	Y	N	N
Annual vegetation of drift lines		N	N	N	N	N
Salicornia and other annuals colonising mud and sand	Restore FCS <ul style="list-style-type: none"> <li>Habitat area: Area stable or increasing, subject to natural processes, including erosion and succession. For sub-sites mapped: Baltray- 2.91ha, Mornington- 1.14ha. See map 6</li> <li>Habitat distribution: No decline or change in habitat distribution, subject to natural processes. See map 6 for known distribution</li> <li>Physical structure: sediment supply: Maintain/restore natural circulation of sediments and organic matter, without any physical obstructions</li> <li>Physical structure: creeks and pans: Maintain creek and pan structure, subject to natural processes, including erosion and succession</li> <li>Physical structure: flooding regime: Maintain natural tidal regime</li> <li>Vegetation structure: zonation: Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession</li> <li>Vegetation structure: vegetation height: Maintain structural variation within sward - Vegetation structure: vegetation cover:</li> </ul>	N	Y	Y	N	N

	<p>Maintain more than 90% of area outside creeks vegetated</p> <ul style="list-style-type: none"> <li>Vegetation composition: typical species and sub-communities: Maintain the presence of species-poor communities with typical species listed in the Saltmarsh Monitoring Project (McCorry and Ryle, 2009)</li> <li>Vegetation structure: negative indicator species- <i>Spartina anglica</i>: No significant expansion of common cordgrass (<i>Spartina anglica</i>), with an annual spread of less than 1%</li> </ul>					
Atlantic salt meadows	<p>Maintain FCS:</p> <ul style="list-style-type: none"> <li>Habitat area: Area stable or increasing, subject to natural processes, including erosion and succession. For sub-sites mapped: Baltray- 17.67ha, Mornington- 8.76ha. See map 6</li> <li>Habitat distribution: No decline or change in habitat distribution, subject to natural processes. See map 6 for known distribution.</li> <li>Physical structure: sediment supply: Maintain natural circulation of sediments and organic matter, without any physical obstructions.</li> <li>Physical structure: creeks and pans: Maintain creek and pan structure, subject to natural processes, including erosion and succession.</li> <li>Physical structure: flooding regime: Maintain natural tidal regime - Vegetation structure: zonation: Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession</li> <li>Vegetation structure: vegetation height: Maintain structural variation within sward</li> <li>Vegetation structure: vegetation cover: Maintain more than 90% of area outside creeks vegetated</li> <li>Vegetation composition: typical species and sub-communities: Maintain range of sub-communities with typical species listed in Saltmarsh Monitoring Project (McCorry and Ryle, 2009)</li> <li>Vegetation structure: negative indicator species - <i>Spartina anglica</i>:</li> </ul>	N	Y	Y	N	N

	No significant expansion of common cordgrass ( <i>Spartina anglica</i> ), with an annual spread of less than 1%					
Embryonic shifting dunes	<p>Restore FCS</p> <ul style="list-style-type: none"> <li>Habitat area: Area stable or increasing, subject to natural processes, including erosion and succession. For sub-sites mapped: Baltray- 2.52ha, Mornington- 0.67ha. See map 7</li> <li>Habitat distribution: No decline or change in habitat distribution, subject to natural processes. See map 7 for known distribution</li> <li>Physical structure: functionality and sediment supply: Maintain the natural circulation of sediment and organic matter, without any physical obstructions.</li> <li>Vegetation structure: zonation: Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession</li> <li>Vegetation composition: plant health of foredune grasses: More than 95% of sand couch (<i>Elytrigia juncea</i>) and/or lyme- grass (<i>Leymus arenarius</i>) should be healthy (i.e. green plant parts above ground and flowering heads present)</li> <li>Vegetation composition: typical species and sub-communities: Maintain the presence of species-poor communities with typical species: sand couch</li> <li>Vegetation composition: negative indicator species: Negative indicator species (including non-natives) to represent less than 5% cover (<i>Elytrigia juncea</i>) and/or lyme-grass (<i>Leymus arenarius</i>)</li> </ul>	N	N	N	N	N
Shifting dunes along the shoreline (white dunes)	<p>Restore FCS:</p> <ul style="list-style-type: none"> <li>Habitat area: Area stable or increasing, subject to natural processes including erosion and succession. For sub-sites mapped: Baltray- 2.97ha, Mornington- 1.99ha. See map 7</li> <li>Habitat distribution: No decline or change in habitat distribution, subject to natural processes. See map 7 for known distribution</li> </ul>	N	N	N	N	N

	<ul style="list-style-type: none"> <li>Physical structure: functionality and sediment supply: Maintain the natural circulation of sediment and organic matter, without any physical obstructions</li> <li>Vegetation structure: zonation: Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession</li> <li>Vegetation composition: plant health of dune grasses: More than 95% of marram (<i>Ammophila arenaria</i>) and/or lyme-grass (<i>Leymus arenarius</i>) should be healthy (i.e. green plant parts above ground and flowering heads present)</li> <li>Vegetation composition: typical species and sub-communities: Maintain the presence of species-poor communities dominated by marram</li> <li>Vegetation composition: negative indicator species: Negative indicator species (including non-natives) to represent less than 5% cover (<i>Ammophila arenaria</i>) and/or lyme-grass (<i>Leymus arenarius</i>)</li> </ul>					
Fixed coastal dunes with herbaceous vegetation (grey dunes)	<p>Restore FCS:</p> <ul style="list-style-type: none"> <li>Habitat area: Area increasing, subject to natural processes including erosion and succession. For sub-sites mapped: Baltray- 26.41ha; Mornington- 20.46ha. See map 7</li> <li>Habitat distribution: No decline or change in habitat distribution, subject to natural processes. See map 7 for known distribution</li> <li>Physical structure: functionality and sediment supply: Maintain the natural circulation of sediment and organic matter, without any physical obstruction</li> <li>Vegetation structure: zonation: Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession</li> <li>Vegetation structure: bare ground: Bare ground should not exceed 10% of fixed dune habitat, subject to natural processes</li> <li>Vegetation composition: sward height: Maintain structural variation</li> </ul>	N	N	N	N	N

	<p>within sward - Vegetation composition: typical species and sub-communities: Maintain range of sub- communities with typical species listed in Ryle et al. (2009)</p> <ul style="list-style-type: none"> <li>Vegetation composition: negative indicator species: Negative indicator species (including non-natives) to represent less than 5% cover</li> <li>Vegetation composition: scrub/trees: No more than 5% cover or under control</li> </ul>					
<b>The Boyne Estuary SPA</b>	<a href="#">ConservationObjectives.rdl (npws.ie)</a>					
Wetlands and Waterbirds	Maintain FCO: Habitat area - The permanent area occupied by the wetland habitat should be stable and not significantly less than the area of 594ha, other than that occurring from natural patterns of variation	N	Y	Y	N	Y
Shelduck <i>Tadorna tadorna</i>	<p>Maintain FCO:</p> <ul style="list-style-type: none"> <li>Breeding population abundance: apparently occupied nests (AONs): No significant decline</li> <li>Productivity rate: fledged young per breeding pair: No significant decline</li> <li>Distribution: breeding colonies: No significant decline</li> <li>Prey biomass available: No significant decline</li> <li>Barriers to connectivity: No significant increase</li> <li>Disturbance at the breeding site: Human activities should occur at levels that do not adversely affect the breeding little tern population.</li> </ul>	N	N	Y	N	N
Oystercatcher ( <i>Haematopus ostralegus</i> )	<i>As above</i>	N	N	Y	N	N
Golden Plover ( <i>Pluvialis apricaria</i> )	<i>As above</i>	N	N	Y	N	N
Grey Plover ( <i>Pluvialis squatarola</i> )	<i>As above</i>	N	N	Y	N	N
Lapwing ( <i>Vanellus vanellus</i> )	<i>As above</i>	N	N	Y	N	N
Knot ( <i>Calidris canutus</i> )	<i>As above</i>	N	N	Y	N	N

Sanderling ( <i>Calidris alba</i> )	<i>As above</i>	N	N	Y	N	N
Black-tailed Godwit ( <i>Limosa limosa</i> )	<i>As above</i>	N	N	Y	N	N
Redshank ( <i>Tringa totanus</i> )	<i>As above</i>	N	N	Y	N	N
Turnstone ( <i>Arenaria interpres</i> )	<i>As above</i>	N	N	Y	N	N
Little Tern ( <i>Sterna albifrons</i> )	<i>As above</i>	N	N	Y	N	N

Note: Potential impacts on Annex 1 Alkaline fens and Alluvial forests have been excluded on the basis that such habitats do not occur on or within proximity to the site.

### **Overall Conclusion- Screening Determination**

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information I conclude that the proposed development is likely to have a significant effect on the conservation objectives of the River Boyne and River Blackwater SAC, the Boyne Estuary SPA and the Boyne Coast and River Estuary SAC 'alone' in respects of effects associated with relating to construction phase water quality, disturbance, invasive species and operational water quality impacts. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is required on the basis of the effects of the project 'alone'.