



An
Bord
Pleanála

Inspector's Report

ABP-316019-23

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| Development | 222 no. dwellings (160 no. houses, 62 no. apartments) and associated site works. |
| Location | Crosstown, Ardavan, Co. Wexford. (www.ardcavanwexfordlrd.ie) |
| Planning Authority | Wexford County Council |
| Planning Authority Reg. Ref. | 20221690 |
| Applicant(s) | Dronoe Limited |
| Type of Application | Permission for Large Scale Residential Development. |
| Planning Authority Decision | Grant |
| Type of Appeal | Third Party |
| Appellants | Ann Donohue Brendan and Annette Lowney Brendan Lowney and Pilar Loring Ciara and Paul MacCarthy Ciaran Quirke and Sharon Kiely |

| | |
|--------------------------------|--|
| | Elizabeth McKiernan and Craig Becker |
| | Martin McDonald and Others |
| | Michael Tierney and Others |
| Observers | Philip Comerford Architects on behalf of Maurice Cronin |
| | Tom Murphy and Jennifer Lowney |
| Date of Site Inspection | 17 May 2023 |
| Inspector | Rachel Gleave O'Connor |

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1.0 Site Location and Description

- 1.1. The appeal site is situated to the east of Wexford Town across the River Slaney in Crosstown, Ardavan. The site is accessed from Wexford Town via Wexford Bridge. The site is bound by the Regional R741 road to the east which is occupied by a number of commercial premises and one-off houses, the local coast road to the south west which is occupied by one-off housing, Riverside Road to the north west occupied by detached housing and the Estuary View housing estate to the north.
- 1.2. The appeal site itself is 7.4 hectares (ha) formed of agricultural fields separated by hedgerows.

2.0 Proposed Development

- 2.1. An application for Large Scale Residential Development (LRD) was lodged to Wexford County Council on 20th December 2022 as follows:
- 2.2. Application for Large Scale Residential Development on a site area of 7.4 hectares comprising the following:
 - 222 no. new homes in the form of a mix of detached, semi-detached and terraced houses, duplexes and apartments, a 6-classroom creche and associated open space and 2 no. retail units;
 - The residential units will consist of 62 no. apartments and 160 no. houses as follows:
 - 34 no. 4 bedroom houses;
 - 126 no. 3 bedroom houses;
 - 6 no. 3 bedroom duplex apartments;
 - 24 no. 2 bedroom duplex apartments;
 - 6 no. 2 bedroom apartments; and
 - 26 no. 1 bedroom apartments.
 - Buildings range from one, two and three storeys high;
 - A central public open space and a couple of pocket parts within the site;

- New pedestrian, cyclist and vehicular entrances from Regional Road R741 to the east of the site and Riverside Road to the north;
- The layout is served by a system of local roads and home zones which weave through the development, creating a residential network of paths and streets;
- Car parking for 436 no. cars and 158 no. bicycle spaces located throughout the site;
- Site servicing (including ESB substations), landscaping, hedgerow plans and SUDS measures are incorporated and integrated into the proposed development.

2.3. Development Parameters

- Total site area: 7.4 ha.
- Density: 30 uph
- Public open space: 12.4%
- Total car parking spaces: 436
- Total bicycle parking: 158.

2.4. Unit Mix

| | Houses | Duplexes | Apartments | Total | % of total |
|------------|--------|----------|------------|-------|------------|
| 1 bed | - | - | 26 | 26 | 11.7 |
| 2 bed | - | 24 | 6 | 30 | 13.5 |
| 3 bed | 126 | 6 | - | 132 | 59.4 |
| 4 bed | 34 | - | - | 34 | 15.3 |
| Total | 160 | 30 | 32 | 222 | 100 |
| % of Total | 72 | 13.5 | 14.4 | 100 | |

3.0 **Planning Authority Pre-Application Opinion**

- 3.1. A section 32 Consultation Meeting took place on the 15th November 2022 in relation to lands at Crosstown, Ardavan.

3.2. A Large Scale Residential Development (LRD) Opinion was issued on 5th December 2022. This concluded that the documents submitted constitute a reasonable basis on which to make an application for permission for the proposed LRD. The following points were noted in accordance with Section 32(c) of the Planning and Development Act 2000 (as amended):

- Development Plan Policy

Wexford County Development Plan 2022 to 2028 is the relevant plan which covers the subject site and Wexford Town is a Key Town in the Settlement Strategy. The Town will continue to be the County's primary settlement for residential and economic growth.

- Design and Layout

The designs submitted for the proposed dwellings and apartments are acceptable. 20% of units should be adaptable for people with disabilities. Accessible parking to be located throughout the site. The layout of the development meets the requirements of the planning authority. Density is appropriate. While the proximity to the town centre would normally command a higher density, there is need to have regard to the existing character of the area. Location of non-residential uses welcomed, creche should be provided in first phase. Streets are legible and development is permeable.

- Biodiversity, open space and landscaping

The development should demonstrate a net gain to promote biodiversity. The NIS is suitable for submission as part of a planning application. Detailed comments with respect to proposed landscaping.

- Transportation

DMURS and Accessibility Audits required. The access to the site from the R741 may need amendment to have regard to Wexford County Council's emerging active travel design for the regional road. Measures to prevent parking on the regional road required. Development to reflect taking in charge standards. Connection to the north welcomed.

- Water Infrastructure

Note Confirmation of Feasibility and Statement of Design Acceptance from Irish Water.

- Surface Water

Planning Authority recommends that attenuation tanks and nature-based solutions be incorporated.

- Phasing

Phasing plan required.

- Part V

Note agreement in place.

- Fire Certification

Note requirements under Building Control Regulations. Access for fire service vehicles and hydrant system/water supply should also meet standards.

- Access

Note Part M requirements under Building Control Regulations.

- Environment

EV charging points to be in all driveways, at least 20% of parking areas to be served by charging points, with remaining spaces culverted for future connection.

- Conclusion

The development is considered to comply with the Wexford County Development Plan 2022 to 2028.

4.0 Planning Authority Decision

4.1. Decision

- 4.1.1. The Planning Authority decided that permission should be GRANTED on 22nd February 2023.

4.2. Planning Authority Reports

4.2.1. Planning Report 21st February 2023

4.2.2. The report provides a summary of the proposed development, the LRD process and submissions received. The Senior Executive Planner has set out their assessment under the following headings, with main matters summarised below:

- EIA Screening

Mandatory Environmental Impact Assessment Report is not required.

- Appropriate Assessment

Conclusion of the NIS is that there will be no significant direct, indirect or cumulative negative effects on the conservation objectives of the Slaney River Valley SAC or Wexford Harbour and Slobbs SPA or the Raven SPA.

- Core Strategy

There has been significant targeted investment in Wexford Town. Given the extent of existing and planned investment, the town will continue to be the county's primary settlement for residential and economic growth. The proposed development is located within the defined built-up area of Wexford Town. The proposed development complies with Objectives CS02, CS05, CS08, CS09, CS10, CS19.

- Zoning

A majority of the lands were zoned as Residential in the Wexford Town & Environs Development Plan 2013-2019 (lapsed) and therefore the principle of housing is acceptable. A portion of the site is zoned as commercial, the creche and retail unit are located in this area which fronts onto the Regional Road (R741).

- Compliance with Sustainable Housing Strategy

Complies with Objectives SHO4, SHO6 and SHO8. It is in the established built-up footprint of Wexford Town, walking distance to key land uses, and is also in compliance with Part V social housing and Part M building regs. The proposed apartments are acceptable. The scheme is weighted in favour of

three bed units, with a relatively even spread of other units, Statement of Consistency states that this is reflective of the growing trend towards reduced average household size and need to cater for families, considered that the development plan standard is achieved. Materials and design acceptable. Childcare facility acceptable. There is a sufficient variety of housing types on offer. Proposal complies with Objective SHO1 and SHO2.

- Density

No concerns raised, proposed density is 30uph.

- Access

No concerns raised.

- Street Hierarchy

Broadly in compliance with DMURS and is acceptable. Proposed street and footpath layout is acceptable.

- Urban Design and Layout

High level of permeability. Coherent relationship between the dwelling houses and active frontages providing a good level of passive surveillance. The planning authority are of the opinion that in general the design and layout achieve the objectives as set out in the relevant guidelines.

- Design and Placemaking

The planning authority is satisfied that the proposed layout successfully responds to the subject site and represents a high standard of urban design in accordance with the principles and objectives of Wexford County Development Plan 2022-2028, with reference to objectives TV01, TV02, TV04-TV06, TV15-TV17 and TV28.

- Parking

No concerns raised. In compliance with Objective CA18 it is desirable that each dwelling should have a facility that can charge a car (condition attached).

- Residential Amenity of Adjoining Property

Visibility of the development is restricted. Development provides a visual relationship between the existing and proposed units by utilising similar traditional forms and material palette.

- Landscaping

No concerns raised. Overall 12.6% of the site will be open space in accordance with the Development Plan, with reference to Objectives ROS12 and ROS16.

- Private Open Space

All properties comply with standards.

- Part V

Proposed development is consistent with the Affordable Housing Act 2021, Housing Circular 28/2021. A total of 18 units will be transferred to Wexford County Council or an Approved Housing Body. Compliance with Objectives SH03 and SH24.

- Accessible Housing

Objective C12 of the Wexford Town and Environs Plan 2009 (extended to 2019) requires 20% of developments of 10 or more to provide adaptable accommodation for disabled people. This application proposes that 20% of the dwellings can be easily adapted.

- Construction Management Plan

The submitted Plan finds that there will be short term temporary impacts, planning authority is satisfied that these can be appropriately mitigated through good construction management and practice.

- Phasing

With reference to Objective WT03, proposed development will encourage sustainable transport patterns.

- Lighting

No concerns raised.

- Boundary Treatments

Condition recommended with respect to inter-site boundaries to require block walls.

- Bin Storage

No concerns raised.

- Naming of the Development

No concerns raised, conditions recommended.

- Archaeological Assessment

An Archaeological Assessment has been requested by the Department and is included as a condition.

- Water Supply, Effluent Treatment, Surface Water and Flood Risk

No concerns raised. Agreement with Irish Water. Underground attenuation and surface water treatment included, no concerns raised. No flood risk concerns raised.

- Length of Planning Permission

To be limited to 5 years as there is limited capacity in the Wexford Town WWTP, which can only be reserved for a limited time. The national housing crisis requires provision of housing to be delivered as soon as possible.

- No concerns with respect to past performance / enforcement matters concerning the Developer.

- Conclusion

The overall design and layout maximises the opportunities that the site presents and will provide for a high quality living environment. The proposed development is on serviceable lands within the established settlement of Wexford Town. It is considered that the proposed development represents the sustainable and economic use of lands and represents a considered and measured design response which will contribute positively to the area by providing a unique and distinctive development which will provide a sense of place while delivery key objectives of the County Development Plan.

- Recommendation

Recommended that permission be GRANTED. General contributions and 38 conditions are stated. Conditions of note referenced above and others include the following:

- Condition no.2 development to be completed within 5 years.
- Condition no.3 concerns restriction of new housing under section 47 of the 2000 Act.
- Condition no.4 concerns a contribution of €167,446.00 to roads.
- Condition no.5 concerns a standard community contribution of €95,892.00.
- Condition no.6 concerns a security bond of €1,554,000.00.
- Condition no.7 concerns Part V housing.

4.2.3. Other Technical Reports

4.2.4. Internal department reports:

- Access Officer – no assessment provided.
- Unspecified department, appears to be from Water Services – recommended that permission be granted subject to conditions concerning AA Screening and NIS guidance, agreement with Irish Water, noise and dust control, and waste management.
- Executive Roads Technician – grant subject to conditions concerning sightlines, surface water, traffic calming measures, no trees near public lighting columns, road markings and signage in compliance with standards, lighting, proposed entrance to tie in with proposed Active Travel scheme, record of construction works for taking in charge, and boundary and retaining walls.

4.3. **Prescribed Bodies**

- Department of Housing, Local Government and Heritage – With respect to Archaeology, there is possibility that the area was suitable for settlement activity in the past, therefore recommend that an archaeological impact assessment should be requested as Further Information, this will enable the

Planning Authority and the Department to formulate an informed archaeological recommendation before a planning decision is taken. It should be borne in mind that if significant archaeological remains are found, refusal might still be recommended, and/or further monitoring, excavation or revision of proposed development site layout. It is the Departments view that a final decision should not be made on the application until the Planning Authority or the Department has had the opportunity to evaluate the Archaeological Assessment.

- Transport Infrastructure Ireland – No observations to make.
- Uisce Éireann / Irish Water – Water connection is feasible without infrastructure upgrade by Uisce Éireann. The Eastern side of Wexford Town is served by a DN100 watermain. Potentially extensive network upgrades required to the water network to serve this development. A Hydraulic model of the water network is required to ascertain the level of upgrades. These works can be done as the development proceed. Uisce Éireann may require the applicant to provide a contribution of a relevant portion of the costs for the required upgrades. In respect of wastewater, connection feasible without infrastructure upgrade by Uisce Éireann. The Wexford Town wastewater treatment plant (WWTP) has currently sufficiently capacity to accommodate this development. However, note that Uisce Éireann have issued a large volume of COF's (confirmation of feasibility) for this area. Should a sufficient number of these developments connect to the network in the Interim prior to the application receiving a connection offer there may be insufficient capacity. The applicant has received a Statement of Design Acceptance dated 28th November 2022 for the proposed water and / or wastewater infrastructure within the Development redline boundary. Recommend conditions requiring connection agreement with Uisce Éireann, no permission to build over Uisce Éireann assets, separation distances and works to meet standards, codes and practices.

4.4. **Third Party Observations**

- 4.4.1. Submissions to the planning authority on the application raised relate to general amenity impacts, design/scale concern, flood risk concern, sewage capacity concern, biodiversity concern, traffic concerns and construction impact, as well as issues similar to those raised in the subsequent third-party appeal and observations to the board.

5.0 **Planning History**

- 5.1. PA ref: 20181762 / ABP ref: 304661-19 – Planning permission granted by Wexford Planning Authority and subsequently refused by An Bord Pleanála on appeal on 1st October 2019. Development for 98 dwelling houses and creche facility. On third party appeal the application was refused by An Bord Pleanála for three reasons.
- 5.2. Firstly relating to inadequate density arising in inefficient use of zoned residential land with reference to “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages)” issued by the Department of the Environment, Heritage and Local Government in May 2009 and to the “Urban Development and Building Heights Guidelines for Planning Authorities” issued by the Department of Housing, Planning and Local Government in August 2018 in relation to housing density in outer suburban/greenfield sites in cities and larger towns, as well as being contrary to the policy objectives, as set out in the Wexford Town and Environs Development Plan, 2009 – 2015 as they relate to density for residential medium zoned lands.
- 5.3. Secondly in relation to poor design layout, failing to create an appropriate urban edge to the public road, with incidental open space and overprovision of car parking, with reference to the “Urban Design Manual – a Best Practice Guide” issued by the Department of the Environment, Heritage and Local Government in May 2009 to accompany the “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages)” issued by the Department of the Environment, Heritage and Local Government in May 2009.
- 5.4. Thirdly in relation to the information provided including NIS, the Board was not satisfied, that the proposed development either individually or in combination with

other plans or projects would not adversely affect the integrity of European sites, Slaney River Valley SAC and Wexford Harbour and Slobbs SPA.

6.0 Policy Context

6.1. National

- 6.1.1. The National Planning Framework – Project Ireland 2040, (2018). This document sets out the Government's strategic national plan for shaping the future growth and development of Ireland for the period up to 2040. Of note National Strategic Outcome 1 (Compact Growth), sets out the focus on pursuing a compact growth policy at national, regional, and local level. From an urban perspective the aim is to deliver a greater proportion of residential development within existing built-up areas of cities, towns, and villages; to facilitate infill development and enable greater densities to be achieved, whilst achieving high quality and design standards. Relevant policies include NPO 4, 6, 11, 13, 18a, 18b & 35. Chapter 6 deals with the matter of 'People Homes and Communities' and includes 12 objectives among which: Objective 27 seeks to: "ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages". Objective 33 seeks to: "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location"; Objective 35 seeks to: "increase residential densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights".
- 6.1.2. Housing for All – A New Housing Plan for Ireland to 2030 (2021). It is a multi-annual, multi-billion euro plan which will improve Ireland's housing system and deliver more homes of all types for people with different housing needs.
- 6.1.3. Climate Action Plan 2023 - The plan implements the carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050, as we committed to in the Programme for Government. The actions and objectives set out in the Climate Action

Plan (CAP23) also contribute to the progression of Ireland's commitment to achieving the 2030 Agenda for Sustainable Development.

6.1.4. Section 28 Ministerial Guidelines: Having considered the nature of the proposed development sought under this application, its location, the receiving environment, the documentation contained on file, including the submission from the Planning Authority, I consider that the following guidelines are relevant:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), and the accompanying Urban Design Manual. Design Manual for Urban Roads and Streets (DMURS).
- Appropriate Assessment of Plans and Projects in Ireland - Guidelines for Planning Authorities (2009, updated 2010).
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') (2009).
- Urban Development and Building Heights Guidelines for Planning Authorities (2018).
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2022).

6.2. Regional

6.2.1. Regional Spatial and Economic Strategy for the Southern Region (RSES). Under the RSES Wexford Town is noted as a key town. RPO 16 of the RSES includes the objective to strengthen the role of Wexford as a strategic location, a self-sustaining regional economic driver and Key Town on the Eastern Corridor; and to develop residential development in Wexford Town.

6.3. Local

6.3.1. Wexford County Development Plan 2022-2028 describes the local planning policy context for the appeal site. Table 3-2 County Wexford Settlement Hierarchy defines Wexford Town as a Level 1 Key Town. Table 3-3 Allocation of Population to the Settlement Hierarchy describes a population allocation of up to 29,273 by 2040. The following objectives are noted:

- 6.3.2. Objective CS15 concerns the preparation of new local area plans, including for Wexford Town.
- 6.3.3. Objective CS19 concerns ensuring that Wexford Town continues as a driver of economic growth and prosperity for the region and county.
- 6.3.4. Wexford Town Strategic Objectives WT01, WT02, WT03, WT04, WT05, WT06, WT07, WT08, WT09 and WT10, concerning regeneration, infrastructure delivery, tourism and sustainable development to support growth.
- 6.3.5. Volume 2 of the Plan contains a Development Management Manual describing development standards applied to the assessment of planning applications. The manual states that the standards should be read in conjunction with other guidelines issued under Section 28 of the 2000 Act, and that they are non-exhaustive, and the Planning Authority reserves the right to set aside, amend, update or replace the standards in the manual. Section 3 relates to residential development.
- 6.3.6. Volume 3 of the Plan contains Settlement Plans and Specific Objectives. Section 1.5 describes the Land Use Zoning and Matrix for the County.
- 6.3.7. Volume 7 relates to Landscape Character Assessment. Volume 9 describes the Housing Strategy for the County. Volume 10 concerns the Energy Strategy.

6.4. **Natural Heritage Designations**

- Wexford Harbour and Slobbs SPA
- The Raven SPA
- Slaney River Valley SAC

7.0 **The Appeal**

7.1. There are eight third party appeals which I have summarised as follows:

7.2. **Ann Donohue – Grounds of Appeal:**

- Privacy – proposed three storey dwelling will overlook the back gardens of numbers 8&9 Estuary View, and is out of character with the area by reason of site strategy, scale, layout and urban form.
- Overshadowing – Overshadowing of south facing gardens and the side of houses which are south east.

- Flood Damage – the proposed development is to be built directly on an existing, water filled marl hole and stream that is flowing into it (photos submitted). This is causing flooding at the back and around the side of numbers 8&9 Estuary View.
- Noise Pollution – Concern regarding construction noise. Occupants of no.'s 8&9 work from home or are elderly. Impact on sleep and work. Concern regarding developer adhering to noise pollution minimisation.
- Access – concern regarding public safety by reasons of the existing road being inadequate to cater for additional traffic. Wexford Bridge already at full capacity.
- Request that objections highlighted in letters of objection to the planning application to Wexford County Council are reviewed. Note additional matter in that letter concerning potential damage during construction, relating to boundary wall to Estuary View shared with no.'s 8&9.

7.3. Brendan and Annette Lowney of Clonakilty, Ferrybank (represented by Ian Doyle, Planning Consultant) – Grounds of Appeal:

- Local Authority Decision – Planners report appears to give weight to the core strategy of the development plan, and the extent to which the proposed development will aid in achieving critical mass in population terms required for Wexford to fulfil its role as a hub in terms of national and regional policy. Planners report quotes figures from table number 3.4 of the Development Plan. This table is incorrectly quoted. Notably table 3.4 calculates zoned land requirements on the basis of 35 units per hectare and not 25 as stated in the planners report. Furthermore, table 3.4 of the adopted plan states that there is a requirement for 62.11 hectares of zoned land in the future to cater for the population allocation for Wexford Town. Under the previous Wexford Town and Environs Development Plan, a total of 406 hectares of land was zoned for residential development of which the subject lands constitute the most peripheral. In the context of the need to de-zone 244 hectares it is reasonable to assume that the subject lands are a prime candidate for de-zoning or Tier 2 designation under the future Wexford Town and Environs Development Plan. The subject site is not zoned and the fact that it was previously zoned is not a

justification in itself to constitute a grant of permission. No sequential argument for the development of the subject site has been presented by the applicants. The proposed development should be refused as being premature pending the adoption of the future Wexford Town and Environs Development Plan.

- Haphazard uncoordinated development in the absence of a functional Development Plan – The subject site is not currently zoned for development. The future Wexford Town & Environs Plan will de-zone 343.6ha of land or alternatively restrict via ‘Tier 1 designation’ the development of 62.1ha over the period of the new plan up to 2029. The site is defined as an outer suburban greenfield site, on the edge of the settlement boundary, and is not sequentially preferable. Restriction in terms of peak traffic over Wexford Bridge and notable lack of community facilities render the site a prime candidate for de-zoning.
- Inadequate Density – Proposed density is contrary to the Sustainable Residential Development Guidelines which state that the greatest efficiency in land is achieved by net densities of 35-50 dph. The site has no notable constraints. Provision of a stronger variation of unit type would afford opportunity for higher density. No genuine concern for neighbouring amenities as no bungalows proposed.
- Lack of provision of Community Facilities – The submitted Community Facilities Audit is substandard, no audit of ability to facilitate the subject site. No commentary regarding schools. Development Plan notes there is an oversubscription for post primary school places in Wexford Town and Objective SC22 requires assessment of existing schools and capacity with applications in accordance with Objective SC37. No assessment has been included. Community audit misses the following uses: medical centres, GPs, dental practice, counselling/therapy, physiotherapist, medical specialists, pharmacy, nursing homes, childcare facilities, primary schools, post-primary schools, third level institutions, training facilities, credit unions, post offices, community centres, youth services, libraries, sports clubs, gyms/leisure centres, parks, churches, cemeteries, fire stations and garda stations. Lack of

local facilities means occupiers will be overly car dependent to access facilities in Wexford Town. No cycle lanes on Wexford Bridge. No Mobility Management Plan submitted.

- Failure to Meet Standard Design Criteria – Design and layout poor and fails to achieve critical design standards of the Development Plan. Overly dominated by house types similar in appearance, similar scale, size, proportions, typology and use of materials. Some cul-de-sacs no turning cycles or hammerheads, weak entrance, dominated by carparking. Design and layout interacts poorly with established existing surrounding development, overbearing, overlooking and unacceptable impact on amenities of existing properties, with a failure to adequately plot location of existing dwellings, sheds and rear boundaries. Glare from street lights. Proposal does not achieve minimum separation distances (22m) between back-to-back in proposed development. The Sustainable Residential Development Guidelines state that in green-field sites, public open space should be provided at a minimum rate of 15% and the proposed application has less than this. Poor biodiversity response, design is tokenistic in this regard, area marked ‘active play’ is same area designed to flood as part of bioretention area. No nature based SUDS as required by the Water Directive and Objective 58 of the NPF, as well as interim guidance from the Department, and requested at pre-app stage. Proposed bioretention area does not form part of surface water management.
- Unacceptable Traffic Impact – Report provided from traffic consultant Martin Hanley highlighting inadequacies with regard to no sightlines shown, no vehicle tracking, no road safety audit, no quality audit, segregated cycle facilities are not required and traffic count undertaken during Covid.
- Issues arising from the LRD process – Restrictions associated with the LRD process regarding Further Information Requests have reduced the opportunity and value of public participation.
- Other issues – Council requested an accessibility audit of the scheme as part of the LRD Opinion which the applicant did not provide.

7.4. Brendan Lowney and Pilar Loring of St. Marys, Crosstown (represented by Ian Doyle, Planning Consultant) – Grounds of Appeal:

- **Unnecessary Removal of Existing Boundary**

The existing boundary to the property to the southern end of the appeal site at St Mary's Crosstown, currently consists of a mature hedgerow, scrub and mature trees of significant landscape and biodiversity value. It is proposed to removal this alongside the field boundary here in its entirety, resulting in significant loss of biodiversity value. The Development Plan state that existing hedgerow/mature trees should be retained, reference to Objective L04.

- **Contrary to Development Plan Policy and Green Infrastructure Objectives**

Excessive removal of existing mature hedgerow, scrub and trees of significant biodiversity value is contrary to the Green Infrastructure Objectives of the County Development Plan, reference to Objective GI01, no nature based SUDS are proposed. The Bioretention area does not form part of surface water management and is tokenistic, and not designed to support or facilitate meaningful biodiversity.

- **Failure to Accurately Map Surrounding Development**

The appellant has a garage located against the boundary of the subject site which has been omitted from most drawings. Part of the garage can be seen on the site layout plan and taken in charge drawings. While the red line boundary appears to consider the location of the garage the site layout drawing appears to remove a corner of the garage and propose development outside the site edged red within the appellants property. Irregularities of this nature have the potential to lead to boundary disputes in the future.

- **Overbearing and Loss of Light**

The side gable of proposed house no.49 (a two storey house on higher ground) is located approx. 10m from the appellants property and rear windows, which is a bungalow, resulting in an overbearing impact on the appellants rear garden and associated outdoor patio space and loss of daylight. The appellant has failed to submit a Sunlight/Daylight Assessment or a Shadow Analysis of the potential impacts of the proposed development on

surrounding existing properties. Block images included to illustrate relationship between the proposed development and the appellant property, demonstrating that as a result of height difference, separation distance and proximity, the proposed development has potential for significant overbearing effect. The applicant has failed to properly assess potential amenity effect on surrounding properties.

- In the Event of a Grant of Permission

Should the Board grant planning permission, it is requested that the following amendments be included: Omit plot no.49 completely; revise house type on plot 49 to a bungalow design; redesign the southern aspect of the proposal to preserve the existing mature boundary; and/or omit house no.'s 42-29 in the interest of retaining an area of high biodiversity value.

7.5. Ciara and Paul MacCarthy (represented by Thornton O'Connor Planning Consultants) – Grounds of Appeal:

- Appellants property 'Mon Abri' which is situated adjacent and to the north of the appeal site, is zoned 'Residential' with an associated objective that includes protection of residential amenities. The application has not had due regard to adjacent amenity.
- Inaccurate Representation of 'Mon Abri' on Plans and Particulars Submitted
The drawings depict a separation distance of c.10m between the proposed development and existing property at Mon Abri, however the existing property was extended in 2019 (following planning permission in 2017 ref.20170359) and the separation is closer to c.5.5m, as shown in aerial photographs. An accurate assessment of impact upon the appellants amenity cannot be made due to the fundamental inaccuracy in the depiction of the scale and layout of their home on the plans and particulars submitted.
- Site Drawings Do Not Show the Existing Septic Tank
Section 23(1)(a) of the Planning and Development Regulations 2001 require site plans to show septic tanks, thus the application should have been invalidated. A house should not be constructed within 7m of a septic tank.

- No Daylight/Sunlight Assessment Submitted and thus Significance of Daylight and Sunlight Obstruction Cannot be Determined

This matter was raised in the observation on the planning application, but no assessment is included in the Planning Officer's Report. Basic modelling and overshadowing studies included to demonstrate impact upon the appellants property, however without a study in accordance with the requirements of BRE3, the significance of the impact cannot be understood.

- The Scheme Includes Houses with 3 no. Floor Levels Proposed at Sensitive Boundaries with Potential for Third party Impact – need for More Appropriate Transition

House type B shows 3 no. internal floor levels with the attic level indicated as optional on the plans, max height shown as 8.875m, resulting in cumulative issues of overbearing, minimal separation distance, height of dwellings and potential for significant daylight/sunlight obstruction. No section drawings of relationship to appellants property included. Assessment of amenity in Planning Officer's Report primarily relates to materials and landscaping and does not relate to matters raised in observations.

- Development provides in Excess of 99% Residential Floorspace Despite the Substantive Tact of Zoned Land Envisioned to Provide Commercial Services and Facilities – Encourages Unsustainable Trips for Access to Local Services by an Expanding Population

A substantive portion of the appeal site is zoned 'Commercial & Mixed use' with a stated objective 'make provision for commercial & mixed uses'. Approximately 30% of the landholding is subject to commercial zoning yet in excess of 99% of the floor area of the development proposal is dedicated to residential uses. Growing population of Crosstown require neighbourhood level shops and services. The population currently travel over the bridge to the core of Wexford Town to avail of such services, adding to traffic movements on a route that is already congested. Error in the social land infrastructure audit as no grocery store beyond the 1km radius at Ardavan Business Park. Reference to section 3.12.7 of the Development Plan.

- Inaccuracies in the Documentation Submitted has the Potential to Lead to a Flawed Assessment

Description of the site as a 'derelict site' on page 28 of the Architectural Design Statement, the site is an agricultural field. Same document refers to the town of Ashford and the addition of a sports and community centre, which are not proposed. Traffic surveys undertaken in October 2020 and thus out of date and during restricted movement during the Covid pandemic. Reference to Wexford Town Environs Plan 2009-2015 in Statement of Consistency does not confirm if infrastructure is provided as required for future development of Crosstown. Planning Officer's Report does not comment on these matters raised in the observation on the planning application.

- Under provision of Open Space

The Planning Report submitted states that on page 10 almost 11% of public open space is provided and on page 8 that almost 12% public open space is included. The Landscape Rationale Design Report submitted states that 12.37% public open space is provided. Table 14.1 of the Wexford County Development Plan 2022-2028 requires the provision of 15% of a site as public open space with at least 10% of that space to be provided in a 'neighbourhood park'. The largest portion of public open space is stated to have an area of 7,031sqm which represents 9.5% of the site area and thus requires an additional area of 396sqm in order to ensure that 10% of the site provides a neighbourhood park as required in the Development Plan.

- Boundary Treatment Proposed Adjacent to Appellants Property

Request clarification that condition no.35 will require the wall to be rendered on both sides. The 1.8m height should be extended from the ground level at the appellants home which is lower than the appeal site.

- Vehicular Entrance/Egress to Riverside Not Necessary due to 'Ringroad' Arrangement

The development includes access to Riverside Road, however this is a ring road that connects back to the R741, therefore traffic will be added to a 'loop

road' that feeds back to the regional road in any case. Request that this access be pedestrian/cyclist only.

- Decision to Issue a Notification of Decision to Grant Permission Has Not Had Regard to the Recommendation of the Department of Housing, Local Government and Heritage in Respect of Archaeological Assessment

7.6. Ciaran Quirke and Sharon Kiely (Represented by Paula E. Redmond) – Grounds of Appeal:

- No Local Area Plan in Place

The expired plan is referenced in the planning application. No LRD should be granted in the absence of a plan, it is premature. The planned new bridge to service Crosstown and other areas to the north of Wexford Town was never built. In this absence, severe traffic congestion will result. Also lack of public transport and cycle lanes over the bridge, the planned development will be exclusively car dependent, contrary to objectives in the Development Plan.

- Zoning

The subject site is zoned in part residential and in part commercial/mixed use based on the expired Wexford Town and Environs Plan. Section 10(8) of the Planning Code provides that there shall be no presumption in law that any land zoned in a particular development plan shall remain so zoned in any subsequent development plan.

- Wexford Town and Environs Plan 2009-2015

There is currently no local area [sic] in place for Wexford Town. Planning application references the expired plan. The expired plan required lower densities for new residential adjoining existing, and low-medium density in general in the area, as well as particular care on lands facing east towards Wexford Harbour and west towards the Slaney.

- Environmental Impact Assessment Report (EIAR)

A EIAR should have been submitted given proximity to Slaney River Valley SAC and Wexford Harbour and Slobs SPA, with reference to Shannon Regional Fisheries Board v. ABP [1994] and EP vs. Harte Peat Ltd [2014]

IEHC 308. Another LRD granted in close proximity to the appeal site and the granting of two LRDs in such close proximity in an environmentally sensitive area in the absence of an EIAR is unacceptable. EIA Screening Report does not list all relevant developments in the vicinity or address climate change. Contrary to Objective EM02, EM05 and CA13. The Preliminary EIA Screening carried out by Wexford County Council is insufficient.

- Deficient Natura Impact Statement (NIS)

The NIS is deficient and does not take into account species for the European sites, reference to *Holohan & ors. v. An Bord Pleanála*. The proposal is also contrary to Wexford County Council's Climate Change Policies, reference to section 2.4.2 and 2.4.3.

- Flooding

The subject site and Riverside Road are liable to flooding, reference to section 2.4.3 of the Development Plan. The appeal site is proximate to Distinctive Landscapes identified in the Plan in section 5.

- Lack of Public Transport

No public transport links to major towns and cities in the vicinity of the proposed development. Bus and rail connections to Dublin, Rosslare and Waterford are located in Wexford Town the other side of Wexford Bridge. All schools located other side of the bridge. Not in keeping with Objective CA01.

- Traffic & Road Safety

Proposed development will severely compound existing traffic problems. Traffic report conducted during Covid-19 lockdown restrictions. The proposed entrance onto the R741 will cause serious road safety issues along with causing traffic delays/slowing.

- Deficient Traffic Survey

Results of the traffic survey are not reflective of life under normal conditions as carried out in October 2020 under Level 5 Covid-19 lockdown restrictions. Appendix C: TRICS OUTPUT FILES pg.3 shows a list of sites relevant to selection parameters. These include four sites, with just one based in Ireland.

The others include Cambridgeshire, Merseyside and Nottingham in England, that do not have comparable traffic.

- Planning Conditions

No condition requiring an ecologist on site during construction works, despite recommendation in the Ecological Impact Assessment Report. Planning condition no.30 provides for working hours 0700-1900 Mon-Fri and 0700-1600 on Saturdays, which is long and noise could be disruptive for people returning home in the evenings or at home on Saturdays.

- Bat Survey

Area of the site most likely to be home to ground nesting and feeding birds and bats not surveyed. Submissions to the Council by locals state that Hen Harriers are active here.

- Engineering Services Report

Granting of the proposed development (in addition to nearby LRD 20221603) is premature prior to completion to on site investigations. Two submissions to Wexford County Council raise issue of works carried out to the surface water system along the perimeter of the appeal site by Wexford County Council, with a direct outfall into the Slaney Estuary installed. This requires investigation as could have consequences for European sites.

- A Daylight/Sunlight Overshadowing Assessment should have been conducted.

- Current Wastewater Facilities

Many dwellings bounding the appeal site have septic tanks and no consideration given to possible damage to their connecting pipework or lack of access to these tanks as a result to of building works. Damage to these tanks could result in pollution. Compounded by inaccurate distances given on drawings.

- Ecological Impact Assessment Report

Cumulative impacts fails to mention nearby LRD 20221603. Section 7.2 of the report mentions glyphosate-based herbicide – this type of herbicide is likely to

soon be banned in the EU. The report recommends using Pelargonic acid, however some reports claim that this only kills leaves and outer parts and the plant soon recovers.

- Not in Keeping with Area

Proposed development will cause overlooking, lack of privacy and negatively impact the owner's use and enjoyment of their properties. No other apartment blocks in the vicinity. No light survey carried out. Reference to expired Wexford Town and Environs Plan with respect to views approaching Wexford Town from the north.

- Social Infrastructure Audit

Car parking number insufficient, cycling not a realistic option, site location is not accessible to shops or public transport. Contrary to Objectives TV04, TV05. Not situated in the town centre. Failure to account for Objective SC37 as the social infrastructure report contains little information.

- Inaccuracy of Drawings including measurements/distances

Drawing no.3.1.006 Site Layout shows distances between existing houses bounding the site and proposed houses. The distances given are inaccurate and misleading, does not account for extensions to existing properties.

- Green Corridor

The green corridor shown on drawings submitted is currently a narrow laneway between two stand alone residences. This is likely to become an area for antisocial behaviour when the population in the area is increased.

7.7. Elizabeth McKiernan and Craig Becker – Grounds of Appeal:

- Observations submitted to the Planning Authority were not considered in the planning assessment.
- Three storey dwellings proposed directly to the rear of appellants low-level bungalow. Proposal is at odds with local property types and density in Crosstown area.
- Local map used for the planning of the new development is incorrect and does not show correct layout and dimensions of appellants house (Whitstable

Y35 HW8A). The proposed development is closer to the appellants boundary than it appears. Proposed development lacks quality of design in relation to proximity of transition to existing houses.

- The septic tank serving appellants property is within 1m of the property boundary and the proposed site. The proposed house to the rear is approximately 3m from this septic tank, with is closer than the acceptable distance of 7m, not possible to assess exactly if environmental health criteria has been breached.
- Proposed development has a public open space and other green areas to cater for the new residents. No consideration has been taken for green spaces between the proposed development and existing properties.
- Proposed boundary to existing house should be plastered 2m high stone wall.
- Lack of Daylight/sunlight Report, therefore no idea of effect.
- A single property application would not have been granted permission based on the above points.
- Proposal would benefit from more houses for life bungalows and retirement properties.
- No recognition of the site's natural drainage and attenuation, new properties on existing steams and water courses, reliant on tanks on an already over stretched pumping system.
- The report on bird and bat activity and nesting does not cover the most sensitive are of the development.
- Large-scale housing required a signed off engineering design for water supply by Irish Water, which does not appear to be present.
- Proposed development designed for families will increase population of school aged children and all 2nd level schools located across the bridge, increasing traffic.
- Scheme ignores the Development Plan requirements for social infrastructure audits. Roads are narrow and congested.

- No new boundary wall other than small limited sports, with reliance on boundary planting, posing a risk to home-owners.
- Appeal site suffers from poor drainage. Photos of flooding in the area submitted.
- Herons nest in the area, other species present include pigeon, pheasant, foxes and badgers. Natural habitat will be obliterated.
- The new town development plan is not in place. Past zoning of the land bears no relevance to the needs of now.
- Transport links to the town are inadequate, development will be car dependent.
- Concern regarding views of Wexford Town when approaching from the north with reference to the expired plan.
- Planners should engage with the community and visit the area.

7.8. Martin McDonald and Others – Grounds of Appeal:

- The Planning Application does not comply with Articles 22 and 26 of the Planning and Development Regulations 2001 as legal interest in the land not demonstrated by the applicant in completing the application form. No letter included from the owner of the site to demonstrate consent to make the planning application, reference to Supreme Court judgement *Frescati Estates Limited v Walker*.
- Planning authority treated observations to the application in an arbitrary and dismissive manner.
- The Senior Executive Planners report contains errors. The proposed development does not respect the adjoining pattern of development or have a similar form and mass. There is no Riverside Road in Crosstown, causing confusion among residents and a flaw in the application. Development does not comply with section 4.4.1 of the County Development Plan. Contrary to Objectives SH04, TV04, SH06. The site is not situated in the established built-up footprint of Wexford Town. Proposal does not blend well with the established contextual setting. Proposal does not enhance biodiversity.

Misrepresentation in the Planner's report concerning the request from the Department for an Archaeological Assessment. No assessment of WWTP capacity in Planners Report following comments from Irish Water. Sewer discharging directly into the Slaney River Valley SAC, and no examination or study has been carried out. Reference to previous appeal on the site 304661-19, where Inspector stated that it was not for the Board to determine the validity or otherwise of the process to undertake works, however by not overturning the decision, the board would be complicit in allowing vast quantities of water into the SAC and SPA without a NIS or appropriate consents and ABP should refuse permission on the basis of illegality of the sewer works. Proposal does not overcome previous ABP reasons for refusal on past application, the Planner's Report does not reference the third reason for refusal. Construction impacts will not be short term and temporary in nature. Planner doesn't address flood risk concerns raised in observations. The site is not walking distance to key land uses such as community, education, retail and employment. Inter departmental response from unidentifiable section and refers to wrong development.

7.9. **Michael Tierney and Others – Grounds of Appeal:**

- Density of Development

Reference to other developments in the immediate Crosstown area and related density, with an average density of 8.58 dph for the five most recent developments in the area (between 3 and 24 units in size). The proposal does not have regard to existing character of the area.

- Traffic Impact to Riverside Road

Traffic lights are required as part of a nearby Nursing Home development (ref.20211678) on Riverside Road (L7910) where it intersects the R741. These lights will provide safer access for residents to the R741 than the other entrance that goes directly to the R741. As a result, the developer's Traffic Impact Assessment has underestimated the impact this development will have on traffic on Riverside Road, which will be the preferred route. Concern with additional volume of traffic on Riverside Road as it is narrow, has a high speed limit, is used as a rat run, is in a poor state of repair and floods.

- Construction Development Impact

Concern regarding access to the site during the construction period, as Riverside Road is inadequate for trucks, access should be directly via the R741. Inaccurate to suggest construction staff will be encouraged to use public transport before the am peak as there is none, and only one after the am peak. With limited on-site parking, workers will park on local roads, and none of the roads are wide enough for on-street parking. Should the application be approved, request conditions that Riverside Road be resurfaced, have speed bumps, have speed limit reduced and incorporate speed signage, and that construction traffic be directed to the R741 with no access via Riverside Road.

7.10. Enclosures referenced above and in addition: Acknowledgement of receipt of planning observations on application 20221690; copies of objection letters to application 20221690; notification of decision for application 20221690; photos of the site and surrounding areas/properties; extracts of submitted plans; report from Martin Hanley Consulting Engineers Ltd Traffic and Transportation; extracts from Wexford Town and Environs Development Plan 2009-2015; EIA Screening – Stage 1 Preliminary Examination for the planning application; extract from departmental websites concerning covid-19 lockdowns; extracts from application documents; extract concerning EU Glyphosate authorisation; extract from scientific journal on pelargonic acid; extract from Wexford CC website re expired plans; and extract of conditions for planning application 20211678.

7.11. Applicant Response

7.11.1. Response dated 6th April 2023, specifically in relation to the appeal from 8 and 9 Estuary Road.

- The proposed houses present their gables to the appellants houses thereby preventing overlooking of their properties. The gables are generally blank but contain a bathroom window at upper level with obscure glazing.
- Overshadowing exercises have been carried out and are enclosed, indicating there would be no appreciable or unacceptable overshadowing of the appellants rear gardens throughout the year.

- **Flooding:** The development site is higher than surroundings and drained by an existing network of drainage ditches. There is no stream at the subject site. The existing site condition contains marl, which is relatively impermeable and therefore in the current situation, surface water permeates very slowly into the ground and therefore tends to sit on the surface after periods of heavy rain. The proposed development will include a new surface water drainage network for the development lands that will discharge to the public surface water network in a controlled manner. The new drainage network comprises a series of SUDS features that will collect and store surface water runoff, releasing it to the public surface water sewerage network at attenuated flow rates equivalent to greenfield runoff rates.
- **Construction Noise/Disturbance:** This impact will be temporary.
- **Access/Traffic:** When developing traffic generation estimates for any development, several surveys are selected from the database based on a range of factors including development type, size, location, public transport etc. TA 79/99 'Traffic Capacity of Urban Road' from the DRMB provides information on the capacity of urban roads based on classification and width. Submitted data indicates that there will not be any significant delays for development trips to access the main road. The design team is confident that the impact of the development will not have an adverse impact on the health and safety of residents of Crosstown, Ardavan area.
- The grounds of appeal are not sufficiently weighty to overcome the very significant and positive features of this proposal, as recognised in the decision of the Planning Authority to grant permission.

7.11.2. Response dated 17th April 2023.

- Extracts from the Planning Officer Report, particularly in relation to the Core Strategy, Zoning, the Sustainable Housing Strategy, Design and Mix of House types, Density, Impact on Residential Amenities of Neighbouring Properties, Landscape and Open Space, Private Open Space, Part V, Accessible Housing, Childcare, Construction Management, Archaeological Assessment, Water Supply, Effluent Treatment and Conclusion.

- Density: Planning policy is that zoned and serviced lands should be developed at a density of 35 to 50 dwellings per hectare. The proposed density has been accepted by the Planning Authority. The provision of homes on the site is in line with national and regional planning policy and can contribute to encouraging people from Dublin to live in Wexford.
- Flooding: The proposed development will remove flooding from these lands by way of a network of drainage pipe work proposed for the site. The proposed drainage system for the development will significantly improve the current situation and should alleviate the concerns of adjoining properties.
- Construction Noise/Disturbance: This will be temporary and is part of any development, and development cannot be refused on this basis.
- Access/Traffic: Data quoted from submitted Traffic Impact Assessment.
- Access to Social Services: The carriageway outside the site is wide and has footpaths on both sides, as has the road approaching Wexford Bridge and the bridge itself. The site is connected by footpaths both sides of the carriageway all the way to the town centre. The town centre is within a 10 min cycle from the site. The site is within a close walking, cycling and driving distance of Wexford Town centre and all its shops, cafes, restaurants, schools, hotels, churches, bus and train station, sports facilities, and cultural activity.
- Ecological Response: A concern was raised regarding an area of scrubland to the west of the site and the fact that the bat walking transects did not enter this area in the summer. This was due to the fact that the area was inaccessible as the result of heavy growth. The bat detector used has a distance range of 50-100m depending on conditions. The distance between the walking transect and the furthestest [sic] point of the scrub area is 40m. Therefore, any bat activity within the area would have been recorded. Bats also have a linear flight pattern so they would avail of hedgerows and treelines to travel throughout the site and would not be restricted to the scrub area alone. An additional but similar concern was raised regarding the area of scrubland to the west of the site with regards to the bird survey. The transects and vantage points undertaken fully cover the scrub area. Audio recordings taken during bird surveys include traffic noise coming from Riverside Road

and the estuary, which at the shortest distance is 65m from the entrance to the scrub area. The distance between the entrance to scrub and the far side of scrub is 40m so any bird song would have been heard and identified by the surveyors. Reference was made to the presence of Hen Harriers on the site, none were identified. During wintering bird survey and vegetation dieback, access was available to the scrubland and a seventh vantage point location was added for surveying. There was no evidence of any current or historical nesting within the scrubland, in particular for ground-nesting species. The area was also assessed in terms of biodiversity and although within the boundaries of the site, the scrubland is the most biodiverse area, in a wider sense, the area would not be considered to be of high ecological importance. Existing perimeter hedgerows are retained to minimise impact on biodiversity. Biodiversity enhancement measures are also proposed.

- Landscape Considerations: Proposed design provides for permeable paving to parking spaces, the retention of the existing hedgerow and associated ditch within the central open space. The natural feature is to be enhanced by providing a bioretention area east of the hedgerow with an invert of +10.50 and sides sloping up to +12.00. The western edge of the ditch is to be widened ensuring side slopes are no steeper than 1:4. The levels are designed to ensure that areas of play do not flood. Providing open space boundaries may render areas not overlooked and where anti-social behaviour may develop. Existing perimeter boundaries are retained and augmented with additional tree and hedgerow planting. A post and panel system is used to minimise the impact on existing trees and hedgerows along the boundary. This type of boundary treatment is most suitable at this location, with less foundation impact upon roots.
- Updated layout drawings submitted showing correct property layout to Mon Abri and Whitstable inclusive of their extensions, that were omitted in originally submitted plans. This marginal item did not affect the ability of the Council Planner to make an informed decision and does not affect the validity of the Council decision.

- Properties at Abri and Whitstable have pushed their buildings/extensions far back into their site, perhaps to give an impressive driveway. They appear to have removed part of the hedgerow at the rear of the property to give themselves greater replacement garden space, requiring them to capture their sunlight and daylight from the application site, rather than their own back garden. Note that adjoining houses have not sited their homes in this fashion. It is not equitable for them to seek to limit the development rights of an adjoining property owner, because they located their properties so close to their boundary.
- The rear garden of Brandon Lowney [sic] has been built in a manner that intrudes into the neighbouring property ownership of the developer, image provided to illustrate this, as well as extract from the property registry. The garage/outhouse is built within the developers property ownership. In the context of the planning application, the red line was not extended out into this area to avoid the matter. It should be noted that the hedgerows for the properties to the north of the site have been pushed into the area in the legal ownership of the applicants. In designing the proposed development in this area, the architects have drawn the red line to follow the hedgerow, despite this reducing the size of the site (image submitted to illustrate this and ownership extent). Overshadowing diagrams are included to demonstrate that no significant impact arises.

7.11.3. Enclosures: Revised site layout plans; Overshadowing studies; and Addendum Bird Survey Report.

7.12. Planning Authority Response

7.12.1. No response received.

7.13. Observations

7.13.1. 2 no. Observations received raising the following matters:

- This development more than doubles the number of houses in the entire Crosstown area;

- The R741 already leads to a bottleneck in traffic on Wexford Bridge at peak times and the development will increase the number of cars on this route;
- Already another large-scale residential development with An Bord Pleanála within 1km of this site and on the R741 (ref.315193 for 191 units);
- Access to Crosstown cemetery will be affected by traffic;
- Site and Crosstown Road floods in the rain, it is a wet and sodden site;
- Impact upon wildlife;
- Current sewerage system/pumping station has insufficient capacity;
- Request a solid boundary between the proposed development and existing dwellings of a rendered masonry wall at 2m height;
- Dwelling at Ferrybank lodge will be overlooked by the proposed dwellings;
- Adverse impact from light pollution;
- Request reduction in height in three storey blocks by a storey;
- The proposed pedestrian entrance in the south east corner of the development is very close to the boundary with Ferrybank Lodge, a large number of people will use this laneway as a shortcut to Wexford town, impacting upon the privacy and amenity of this adjacent occupier, request that this entrance is omitted.

7.14. Further Responses

- None received.

8.0 Assessment

8.1. The main issues in this appeal case are those raised by the Third Party Grounds of Appeal submissions. Third party observations on the appeal generally cover matters identified in the appeal grounds and are addressed as part of the main issues covered in my assessment here. I also address Environmental Impact Assessment and Appropriate Assessment separately in sections 9 and 10 below, and propose to address the remaining issues under the following headings:

- Land use zoning
- Density
- Design and scale (including layout, open space and boundary treatment)
- Impact upon the amenity of existing occupiers
- Traffic and transportation
- Social infrastructure
- Flooding
- Ecology
- Archaeology
- Other procedural matters

8.2. Land use zoning and the principle of housing development on the site

- 8.2.1. A number of the grounds of appeal submissions raise the matter of zoning and more generally the applicability of the Wexford Town and Environs Development Plan 2009-2015 (as extended to 2019) to the site.
- 8.2.2. It is accepted by the Planning Authority that the Wexford Town and Environs Development Plan 2009-2015 (as extended) has now expired, and this is specifically referenced in the Planner's Report on the application. The Council's website confirms that the Wexford Town and Environs Plan 2009-2015 was extended until 2019, 'or such time as a new County Development Plan is made.' A new plan has subsequently been adopted, the Wexford County Development Plan 2022-2028, and therefore there is no dispute in my opinion that the previous Wexford Town and Environs Plan 2009-2015 (as extended) has now lapsed.
- 8.2.3. Despite this, the Planner's Report in addressing the matter of zoning, includes an extract from the Wexford Town and Environs Plan 2009-2015, acknowledging the plan as now lapsed, and states that the principle of housing is acceptable on the site in light of zoning under that plan.
- 8.2.4. Section 10(8) of the Planning and Development Act 2000 states that 'There shall be no presumption in law that any land zoned in a particular development plan (including a development plan that has been varied) shall remain zoned in any

subsequent development plan'. As a matter of legislation, it is therefore clear in my view that the application of the zoning under the now expired Wexford Town and Environs Development Plan to the appeal site is procedurally incorrect.

- 8.2.5. The current Wexford County Development Plan 2022-2028 does not include land use zonings for Wexford Town and surrounding areas, with the intention that a Wexford Town and Environs Local Area Plan (LAP) will be adopted in future and include land use zonings for the area. However, the fact that the appeal site is not zoned for residential, does not necessarily make the proposed development unacceptable. As there is no applicable zoning on the site, the proposed residential use of the site does not conflict with zoning of the land, and it is therefore a question of assessing the proposed land use on the site in consideration of objectives under the current Development Plan for the County.
- 8.2.6. There is an interconnected procedural question which I will highlight at this point, relating to Large Scale Residential Developments. Under Part III Control of Development section 32A (ii) of the 2000 Act, an application for large-scale residential development can only be submitted on lands zoned for the uses proposed in the application. This therefore raises the question of validity of the application; however, this question would have been under the jurisdiction of Wexford's Planning Authority and is not an area that can be revisited as part of an appeal to An Bord Pleanála. Wexford County Council's Local Planning Authority accepted the application for large-scale residential development despite the lack of zoning on the site, and I will therefore continue with my assessment.
- 8.2.7. In addressing the principle of housing development on this appeal site, a key consideration in my view is the core strategy and housing strategy for the area as described in the current Wexford County Development Plan 2022-2028. This is particularly in light of the scale of development proposed, being 222 no. dwelling units. The Core Strategy is set out in chapter 3 of the Development Plan and identifies Wexford Town as a level 1 key town, which flows from regional designations set out in the RSES. The Planner's Report for the application highlights that the core strategy identifies Wexford Town as continuing to be 'the county's primary settlement for residential and economic growth.' It is the largest town in the county and targeted investment in transport links, water services and other infrastructural facilities make it appropriate for continued focused growth. The core

strategy also identifies that in preparing local area plans, the Council will ensure a Tiered Approach to Zoning, so that land is developed in a phased manner in accordance with the availability of infrastructure (page 59). Table 3-4 'Core Strategy Population Allocations, Housing Units and Housing Land 2021-2027' identifies an allocation of 2,174 no. units for Wexford Town, with 652 no. units to be delivered in the built-up area of the town. The table goes on to identify a zoned land requirement of 62.11 ha for Wexford Town, which is a significant decrease on the extent of lands zoned under the previous plan for the area, with an excess of +343.66 ha. The table identifies this in an 'existing zoning' column (being 406 ha for Wexford Town), however as discussed above, this is reflective of a now lapsed zoning position in my view. In short, as a result of the housing allocation described, it is likely that a considerable extent of land zoned under the expired Wexford Town and Environs Development Plan will subsequently be 'de-zoned' under the new LAP for the area. Both the core strategy and the housing strategy in the current Development Plan describe that zoning will be determined on a sequential basis and in light of service connections.

- 8.2.8. The appeal site is situated outside of Wexford Town in Crosstown, Ardcavan. Taking a sequential approach, it is likely in my view that sites within the town itself, are likely to be prioritised for residential zoning in my view. Neither the Planning Authority or the Applicant have acknowledged the lack of zoning on the site and directly addressed this issue, therefore I am not presented with any evidence to support the development of the appeal site would represent sequential growth of the town in comparison to other available land. In my view the separation of the appeal site from the town and accessibility to the town via a single point across Wexford Bridge, would be a disadvantage for the site in my view. There is also the question of accessibility to public transport and social infrastructure which is also raised in appeal submissions and which I address in more detail below (sections 8.6 and 8.7), but in summary, the site does not reflect the same level of accessibility that would be demonstrated within Wexford Town itself, a further indication that other more appropriate sites for housing exist in the area. However, the appeal site is serviceable, and this is confirmed by Irish Water, albeit flagging potential future capacity issues at the WWTP as developments in the area connect. The appeal site is also surrounded by existing residential dwellings and therefore the proposed

residential use reflects established land use in the area. I highlight these points, not to predetermine any future zoning decisions on the site, but in recognition of the matters relevant to determining which sites will be suitable for large scale housing development in principle. Overall, this leads me to conclude that there can be no assumption that the appeal site will be zoned residential under the new LAP for the area, or that the appeal site represents a suitable location for large-scale housing development in an area historically 'over zoned' for housing.

- 8.2.9. The Wexford County Development Plan 2022-2028 identifies that Wexford Town has an excess of +343.66 ha of land zoned for residential use. The proposed development is for large-scale residential development of 222 no. units on a site that is situated outside of Wexford Town and accessible to the town via a single point over Wexford Bridge. The appeal site is reliant upon Wexford Town for infrastructure which is approximately a 20 minute walk away. I am not satisfied that a case has been made by the Applicant that the development of the appeal site for large scale housing development would represent spatially sequential growth of the town, as other more appropriate sites may exist for large-scale housing development and could represent a more sustainable approach. Should the appeal site be developed for large-scale housing, it could consequentially remove the ability of other more suitable sites in Wexford Town to come forward for housing, given the excess of zoned land identified in the core strategy for the town.
- 8.2.10. As a result of the foregoing, I concur with third party appellants that the site is not currently zoned for residential use, and I have set out my reasoning above as to why the appeal site cannot be assumed to represent a sustainable site for the sequential growth of the town. A case has not been presented by the Applicant or Planning Authority as to why the appeal site would reflect a spatially sequential growth approach in comparison to other sites available for residential development in the town. As such, in my view the proposed development is contrary to National Strategic Outcome 1 'Compact Growth' under the NPF and Objective CS02 of the Wexford County Development Plan 2022-2028 concerning adherence to the principles set out in the Core Strategy, including the 'Development Approach' for Wexford Town, which includes point no.6 that the development of brownfield and infill sites in the town centre and close to public transport corridors will be prioritised.

I therefore recommend that the Board allow the appeal in this regard and refuse permission for the proposed development.

8.3. Density

- 8.3.1. I note that there are grounds of appeal that raise concern that the proposed density is too high and not reflective of the area, while there is also a submitted third party appeal that states that the density is too low in light of national planning policy. The Planning Authority does not raise concern regarding the proposed density.
- 8.3.2. Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures. In relation to Section 28 Guidelines, the 'Urban Development and Building Height, Guidelines for Planning Authorities' (Building Height Guidelines), 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (Apartment Guidelines) and Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (Sustainable Residential Development Guidelines) all support increases in density, at appropriate locations, in order to ensure the efficient use of zoned and serviced land. I also note Circular NRUP 02/2021 advising of residential density guidance for towns and villages, intended to clarify the application of Sustainable Residential Development Guidelines, with a graduated and responsive, tailored approach to the assessment of residential densities, as defined in the Apartment Guidelines.
- 8.3.3. Having regard to the Sustainable Residential Development in Urban Areas Planning Guidelines and Circular NRUP 02/2021, the subject site can be considered an Outer Suburban / 'Greenfield' site. On such sites, densities generally ranging between 35-50 dwellings per hectare (dph) should be achieved and development at net densities less than 30 dph should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares. A previous appeal on the site ref. 304661-19 relating to 98 dwellings and assessed under the previous County Development Plan, was refused by An Bord Pleanála, in part, due to the low density proposed which at that time which was 16.5 units per hectare (uph).

- 8.3.4. The proposed development in this current appeal, has a density of 30 uph on a site of 7.4 ha. This is less than the 35-50 dph range set out in the Guidelines but meets the minimum density of 30 dph set out in relation to land efficiency. The guidelines are clear that the local planning policy context should establish appropriate densities for sites and that the 35-50uph is a 'general' range.
- 8.3.5. The Wexford County Development Plan 2022-2028 states in table 3-4 of the Core Strategy average densities of 35 uph for Wexford Town, with a note that 'Final density (and thus zoned land) will be decided on a site-by-site basis in accordance with the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities when local area plans are being prepared'. Objective SH06 of the Development Plan states that the provision of new housing will be prioritised in existing settlements at an appropriate density with reference to national and regional guidance and the core strategy. Table 4-5 'Indicative Density and Scale' also restates the approach to density set out in the Sustainable Residential Development Guidelines and Objective SH15 requires adherence to those guidelines with respect to density. Table 2-1 of the Development Management Manual in Volume 3 of the Development Plan links the assessment of efficiency and compact growth in relation to density to consideration of accessibility of sites by public transport.
- 8.3.6. Therefore, the national and local planning policy context describe that density should not be less than 30 dph in areas such as where the appeal site is situated, and in this context, I am satisfied that the proposed density is not too high.
- 8.3.7. In relation to the suggestion in a third party appeal that the proposed density is too low, I concur that a range of 35-50 dph applies to the site, however I have also identified that this is a general range and that the overall approach in the guidelines is supportive of densities being assigned in light of the local planning policy context. With this in mind, I have considered the accessibility of the appeal site, which I address in detail as part of my consideration of transportation in section 8.6 below. In summary, the appeal site is reliant upon pedestrian and vehicular transport, with poor public transport accessibility available from the site itself and minimal cycle infrastructure exhibited in the area. The appeal site is approximately a 20 minute walk to the town itself, and I have set out above why these characteristics weaken the case that development of the appeal site would reflect the principles of compact growth following a spatially sequential approach. As such, it would be acceptable in

my view for development of the site to achieve the minimum land efficiency density level set out in the guidelines of 30 uph, rather than strictly fall within the 35-50 dph which is described as a 'general range' in the guidelines.

8.3.8. While the proposed development is below the 'general range' of 35-50 dph set out in the guidelines, it exceeds 30 uph. I do not consider the difference between the proposed density and the range in the Sustainable Development Residential Guidelines to be significant, given the overall approach to density set out in the Guidelines and the Development Plan. National, regional and local planning policy link the assessment of appropriate densities to site specific characteristics including accessibility to public transport and infrastructure, which I have addressed above.

8.3.9. In light of the characteristics of the appeal site and the overall approach to density in the Sustainable Residential Development Guidelines and the County Development Plan, I am therefore satisfied that the proposed density would be acceptable on this site. Albeit, noting that I have concluded in section 8.2 above that the appeal site has not been demonstrated to be a sustainable site for the sequential growth of the town, and therefore I do not support the principle of residential development on the site. Notwithstanding this, and as an isolated point of consideration, I do not agree with the grounds of appeal with respect to density as a result of the assessment I have set out above.

8.4. **Design and scale (including layout, open space and boundary treatment)**

8.4.1. Design, scale and mass

8.4.2. Third party appeal submissions raise matters with respect to the appearance of the proposed development, stating that the proposed design interacts poorly with the established existing built context for the area. Concern is raised with regards to repetitive typologies and impact upon views of Wexford Town when approaching from the north.

8.4.3. Local planning policy within the Wexford County Development Plan 2022-2028 states in Objective TV21 that new development should respect, enhance and respond to its natural, built, cultural and social context and add to character and sense of place. Objective TV22 asks new development have regard to the scale of the settlement and the ability to absorb further development, with regard to scale, bulk and massing. Objective TV16 requires a Design Statement to accompany

schemes over 2ha, addressing details set out in the Development Management Manual for the plan. The Development Management Manual in Volume 2 of the Development Plan asks that the criteria in table 2.1 be applied to new residential schemes. The criteria reflect guidance in the Urban Design Manual: A Best Practice Guide. The Applicant addresses criteria under the Urban Design Manual in their submitted Architectural Design Statement.

- 8.4.4. In terms of national policy, as well as the Urban Design Manual, I note national policy in Project Ireland 2040 National Planning Framework, and particularly objective 35 concerning increased residential density in settlements. Section 28 guidelines under the 'Urban Development and Building Heights Guidelines for Planning Authorities' (the Building Height Guidelines) are also relevant and describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison.
- 8.4.5. The Applicant states in their Planning Report and Statement of Consistency that as the proposed buildings are 2 and 3 storeys in height, these section 28 guidelines do not apply. However, I note SPPR 4 in the guidelines in relation to greenfield or edge of city/town locations, which states that a greater mix of building height and typologies should be sought, and avoidance of mono-type building typologies. Paragraph 1.9 states that *'these guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels.'* The development management criteria described in section 3.2 of the Building Height Guidelines also inform an assessment of appropriate heights. The Development Plan in this case does not restrict height at the site, with an assessment to be undertaken on a site-by-site basis and in light of the established context. As such SPPR 3 of the guidelines does not apply, however the application of the criteria under section 3.2 of the guidelines is not restricted to applications where SPPR 3 applies, and I expand on this in the subsequent paragraph below. The Sustainable Residential Development Guidelines also promote high quality design and the Applicant's Planning Report and Statement of Consistency addresses these guidelines.

- 8.4.6. The proposed development comprises 2 storey houses (with part 3 storey houses featuring dormer attic level), as well as 3 storey duplex blocks and an apartment block with ground floor creche and retail units. The ground level of the appeal site is slightly higher compared to neighbouring areas. Adjacent to the site are single storey and 2 storey houses, as well as non-residential buildings on the R741. As such, the proposed development with a maximum height of 3 storeys, is a departure from the established scale of the area and therefore regard of the criteria under section 3.2 of the Building Height Guidelines can assist in the consideration of the proposed building heights for the site given this context. Objective TV52 of the Development Plan states that development incorporating higher buildings (i.e. buildings that exceed the contextual prevailing height) will be facilitated where it has been demonstrated that the development complies with the assessment criteria set out in Section 3.2 of the Building Height Guidelines.
- 8.4.7. The first criteria under section 3.2 of the Building Height Guidelines relates to the accessibility of the site by public transport. I address the accessibility of the site in in 8.6 below, and more generally in section 8.2 and 8.3 above. In short, the appeal site is situated circa 20 minutes walk to the town, with limited public transport connections proximate to the site itself. The proposed development will therefore be reliant upon the facilities and services available within Wexford Town itself. This limits the density of development that can sustainably be supported on the site, and links with height too. In my view, the proposed development is appropriate in this context given that it is largely made up of 2 storey houses, with limited 3 storey blocks, in a greenfield/edge of town location where SPPR 4 of the guidelines supports default heights up to 4 storeys. However, with reference to SPPR 4, greater heights would not be appropriate on the site in my view, given its limitations with regards accessibility.
- 8.4.8. The second criterion relates to the character of the area in which the development is located, which links closely with considerations under Objectives TV21 and TV22 of the Development Plan, which I am cognisant of while making this assessment. As well as Objective TV53 'ensure that building height within future development makes a positive contribution to the built form of the area, is not obtrusive and does not adversely impact on the streetscape, local amenity or views.' The appeal site is situated in an area where building heights are predominantly one and two storeys,

with mainly residential dwellings characterising the immediate area around the site. Some commercial units are also situated on the R741 close to the site. The appeal site is close to the River Slaney and estuary, coastal areas, with these waterbodies and adjacent natural settings forming the dominant presence when approaching the site from the west over Wexford Bridge. Wexford Town itself has a much more urban and built presence along these waterbodies when viewed from the east over the bridge. Along the local coastal road to the south west of the site, properties are largely formed of bungalows set away from the road in large plots and on Riverside properties are 1 and 2 storeys. Settlements in the area are focused close to the R741. Beyond the immediate residential neighbourhoods surrounding the site and the R741, the area becomes more rural and is formed of greenfield/agricultural areas.

- 8.4.9. There are no current planning policies protecting specific views in the vicinity of the appeal site. The appeal site is located in a Coastal Character area as identified in Volume 7 of the Development Plan, and I note associated Objectives asking that development minimise potential adverse impact on coastal character areas such as L06 and Objective L01 which concerns Landscape Character. The proposed development is formed of 2 and 3 storey houses, duplexes and apartment block. The appeal site is situated adjacent to existing residential dwellings and therefore the proposed housing is in keeping with this residential character and would not adversely impact the coastal character of the area in my view. The 3 storey duplex and apartment blocks are set into the site and away from adjacent existing neighbouring properties. While there are some houses proposed with roof dormer levels (house type A), the height of these proposed houses is 9.459m and therefore similar to the heights of other 2 storey houses proposed (types B, C and D) at circa 9m.
- 8.4.10. In relation to the impact of the proposed scale and mass of the development upon the adjacent residential areas and their visual amenity, I am cognisant of the third party appeal submissions in this regard, stating that the proposed development would be overbearing resulting in adverse amenity impact. I address concerns regarding overshadowing, overlooking and separation below, while this section of my report relates to visual amenity. While I accept that the proposed development includes 2 storey houses proximate to existing bungalow houses, it is typical of

residential areas to include such adjacencies and it would be unreasonable in my view, and contrary to the both the national and local planning policy approach to compact growth, to insist upon single storey houses along these edges of the site. The existing one-off single storey houses have large footprints and plots, and to reflect this arrangement on the appeal site would detrimentally impact land use efficiency. I have already set out in section 8.2 above why I do not accept that residential development of the site is acceptable in principle, however if residential development of the site were to be acceptable as a point of principle, and as an isolated matter for assessment, the layout of the proposed houses and blocks requires careful consideration. Therefore, if residential development on the appeal site were accepted, impact upon existing adjacent occupiers as a result of the development of this site would be inevitable, nonetheless it is necessary to determine whether the degree of impact is within acceptable parameters.

8.4.11. The proposed development presents side flanks to the north west boundary where it is closest to properties set deep into plots on Riverside, particularly proposed houses no.'s 12 and 129 as they are closest to existing properties at Mon Abri and Whitstable. This arrangement reduces the perception of overlooking to the rear of existing properties, as the flank gable ends of the proposed houses have no windows. However, appeal grounds raise concern at the proximity of these houses to the boundary and existing properties, with concern of overbearance. I note concern regarding the inaccuracy of the original site layout plans for the application in relation to the footprint of some existing properties, including Mon Abri and Whitstable and I address this in section 8.11 below. The Applicant has provided updated and corrected site layout plans for the proposal, illustrating the correct footprint for these existing properties. However, in my opinion this omission suggests that the proposed layout was not necessarily informed by the correct footprint and resulting relationship with these neighbouring properties, and I concur with appellants in this regard.

8.4.12. While the proximity to Mon Abri and Whitstable is circa 11m and 13m respectively, this does not reflect the more generous distances exhibited to other existing properties (with the exception of no.3 Lowneys Estate). The Applicant's response suggests that the close proximity to these properties is as a consequence of the way these existing properties have been arranged in their plots, and essentially too close to their rear boundaries with the appeal site. Such an argument could have more

traction when considering daylight and sunlight (which I address below), however on this appeal site which is of a significant size and has ample opportunity to utilise a layout promoting sensitive relationships to existing properties, the argument is less convincing in my view. In terms of the relationship to Mon Abri and Whitstable with the proposed development, it would be possible to arrange proposed houses with a back-to-back layout to these existing properties (including the property situated between them), as is demonstrated elsewhere in the proposal (i.e. the proposed arrangement of house no.'s 130-139). In my opinion, it would be possible to also achieve necessary separation (i.e. 22m between first floor habitable room windows) in such an arrangement. It is not clear to me whether the same number of houses could be achieved. In reflection of the current context of the area and the layout of residential dwellings in the vicinity of the site, I concur with the appellant that the current proposed arrangement will create an overbearing impact upon the rear gardens at Mon Abri and Whitstable, which is not reflective of the established character of the area. However, I think that this impact would be effectively resolved with a back-to-back arrangement between the existing and proposed houses as I describe above. In relation to no.3 Lowney's Estate, I am also of the view that the close proximity (approximately 11m) between the side flank of proposed house no.49 and this existing property and resulting relationship is atypical for the area and would create an overbearing impact to the rear of the existing property. This could be resolved with the removal of proposed house no.49, however the resulting vacant plot would present difficulties as public open space, with limited overlooking. Attempting to try and design out this impact via conditions would be problematic for this reason in my view.

8.4.13. I am not recommending that the application be approved, and therefore I am not recommending that the Board seek to resolve these matters by condition. I also think that using conditions to reorganise the layout of the proposed development to address these points of impact would be difficult, as the resulting number of houses and functionality of spaces is unclear. I also have wider concerns with the proposed layout which I address below, and which is interrelated with the matters I describe here. Taking the overall flaws in the proposed design into account, it is difficult to retrospectively 'fix' these matters, which in my view should have informed the design approach at conception stage. As such, and in light of the wider design assessment I

set out here, I agree with the appeal in relation to this matter and I am recommending that the application refused with regards to the same.

- 8.4.14. In terms of an assessment of the contribution of the proposed development to the urban neighbourhood (a 3.2 criterion), with the exception of the impacts described above, I am satisfied that the proposed development appropriately addresses existing and proposed streets, and would make a positive contribution, particularly along the R741. I also note Objective TV17 in the Development Plan requires developments of over 50 dwellings to include a public realm plan and statement. The application includes a Landscape Design Rationale and landscape plans which together provide detail on elements making up the public realm in the proposed development, including streetscape environment and street furniture. Details of outdoor lighting is also provided in the application.
- 8.4.15. In terms of the detailed appearance of the blocks (3.2 criteria including avoidance of uninterrupted walls, contribution to space and materials), I note this also links with Objectives in the Development Plan including TV15 concerning high standards for details and materials of buildings. I am satisfied that the proposal incorporates variation to façade design, with the incorporation of large glazing and balconies to duplex and apartment blocks. I note third party appeal submissions that the proposed materials are not reflective of the area and/or are not diverse enough between blocks. The materials for the houses and blocks include granite or limestone and render to define bays for the buildings, with reconstituted stone bands, plinths and capping. These materials are arranged alternatively/in variations depending upon house type. In my opinion the design approach and use of materials is oversimplistic and would benefit from increased variation to define the character areas for the site. The appeal development would establish a large new neighbourhood for this area and it would be important for the legibility of this new neighbourhood (also a Section 3.2 criterion) that the design ensured distinct character areas throughout. The current design does not achieve this in my view, with a homogenous approach to housing types. However, the use of a slightly more diverse material palette and less replication of material use between proposed housing types, could resolve this issue. If the Board were minded to grant permission for the application, I would recommend that a condition be used to secure a revised approach to materials in this regard.

- 8.4.16. In relation to legibility of streets as well as Objectives TV25 and TV26 concerning permeability in the Development Plan, I note that the proposal includes connections through to Riverside and the R741. Future connection points are also possible with the proposed street arrangement. However, there are flaws in the street layout approach in my view, and I consider this in more detail as part of my consideration of the layout below. In summary, there is a lack of hierarchy to the street layout, lack of use of homezones and excess use of perpendicular car parking spaces along the central road through the site. These features undermine the legibility of the proposed development in my opinion.
- 8.4.17. There is also a pedestrian link to the R741 situated between two existing residential plots. This has limited overlooking and is of restricted width and could facilitate anti-social behaviour or form an unsafe route for uses. The main access to the R741 is also situated just to the north, and therefore there is little benefit or time saved for potential users of this route. A surface water outflow is situated here, and access may be needed for maintenance, but does not require this to be a public through route. Similarly, a 'proposed green corridor' is included between existing properties on Riverside, however this is not a through route, but is limited in width and would also be conducive to anti-social behaviour. The function of this 'proposed green corridor' is unclear and it is not clearly identified by the Applicant whether there is a constraint in terms of services or utilities dictating this arrangement. There are retained hedgerows in this 'corridor', but retaining vegetation does not necessitate general access in my view. I note that appeal submissions raise similar concerns with regards to these elements of the proposal, and in the event that the Board were minded to approve the application, I recommend that these two elements be omitted from the development and secure gates/boundary treatment be utilised to restrict access to these parts of the site.
- 8.4.18. The proposed development will provide increased diversification of housing typology in the area which is currently predominately self-contained dwelling houses. The incorporation of apartments on the site would therefore be a positive contribution to the mix of typologies in the area (a 3.2 criterion).
- 8.4.19. Lastly, the section 3.2 criteria under the Building Height Guidelines refers to considerations on daylight and overshadowing. This criterion includes regard to the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight'

(2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’. The Building Height Guidelines states that the form, massing and height of development should be modulated to maximise access to natural light in proposed development (and minimise impact upon surroundings). The Building Height Guidelines state that where a proposal may not fully meet all the requirements, then compensatory design solutions must be set out, as well as consideration of wider planning objectives. Objective TV52 of the Development Plan states that development incorporating higher buildings (i.e. buildings that exceed the contextual prevailing height) will be facilitated where it has been demonstrated that the development complies with the assessment criteria set out in Section 3.2 of the Building Height Guidelines. As I have outlined above, in my opinion the Building Height Guidelines and criteria under Section 3.2 apply to this current appeal as heights exceed the current prevailing height of the area at 1 and 2 storeys, with proposed maximum heights of 3 storey. I also note that third party appeal submissions specifically highlight concern at the lack of submission of a daylight, sunlight and overshadowing assessment with the application.

8.4.20. In my opinion, the application should have included a Daylight and Sunlight Assessment with respect to the proposed development to accord with Objective TV52 of the Development Plan and consequentially the Building Height Guidelines. This is specifically in relation to the proposed duplex and apartment units proposed which are 3 storeys in height and therefore exceed the prevailing context in the area. However, I note that all of the proposed units are dual aspect in the proposed development, and given the relatively low rise scale of the proposed development (being 2-3 storey) and reflective of a standard suburban residential area, in my opinion it is likely that the minimum standards set out in the BRE guidance would be met or exceeded. Arguably, by including 100% dual aspect units, the proposed design has sort to maximise access to natural daylight which would accord with the requirements of the Building Height Guidelines. However, as a specific assessment is not provided, I cannot be certain whether all proposed units meet the minimum standards and/or what compensatory measures are included if they do not. In relation to Building Research Establishments (BRE) criteria for daylight, sunlight and overshadowing of existing neighbouring properties, I discuss this in detail below in sections 8.5.

- 8.4.21. This matter relates to a lack of assessment detail that would be adequately addressed by way of a request for further information. I am not recommending that the Board address this matter via a request for further information as I am recommending that permission be refused for other reasons. At this stage, I consider it unlikely that significant adverse conditions with respect to daylight and sunlight would result in, or because of, the proposed development given its low rise scale and inclusion of all units as dual aspect, as such I do not consider the lack of a specific assessment being sufficiently fundamental as to warrant a refusal. Therefore, in light of the lack of assessment of daylight and sunlight for both the proposed development and in relation to existing occupiers, and specifically Objective TV52 of the Development Plan which requires adherence to Section 3.2 criteria in the Building Height Guidelines, and the proposal incorporating heights greater than the prevailing built context, I am recommending that the Board include a note on the decision in relation to insufficient assessment with regards to daylight, sunlight and overshadowing for the application.
- 8.4.22. The submission of specific assessments is also referenced in the guidelines and with the exception of daylight and sunlight as discussed above, reports sufficient to assess a development of the scale proposed have been submitted. I note the applicant's documents that have informed my assessment, including (but not limited to) the submitted NIS, Architectural Design Statement and Landscape Design Rationale.
- 8.4.23. In light of the foregoing, I am not satisfied that the proposed development appropriately incorporates the criteria described in section 3.2 of the Building Height Guidelines. This is specifically in relation to failure to successfully integrate or enhance the existing character of the area, with inappropriate close proximity of proposed houses to existing properties, a homogenous approach to the design of houses with lack of distinct character areas and a street layout that lacks hierarchy undermining the legibility of the scheme. While I note that the proposed development does not amount to a material contravention of the Development Plan in relation to height, Objective TV52 of the Wexford County Development Plan 2022-2028 states that increased height (above the prevailing context) will be facilitated where development complies with the criteria under Section 3.2 of the Building Height

Guidelines, and I have set out in my assessment above, why the proposed development fails to do this in my opinion.

8.4.24. Site layout design and public open space

8.4.25. I note third party appeal submissions with respect to the proposed layout, that this poorly designed, overdominated by car parking and fails to achieve standards set out in the Development Plan. I note Objectives TS16 & TS25 concerning design in accordance with DMURS, TV27 concerning hierarchy of streets, TV28 active edge to streets, TV29 concerning adequate enclosure to spaces, TV30 concerning making links to existing areas and TV32 concerning DMURS and design that encourages low speeds in Wexford County Development Plan 2022-2028. I also note that an appeal was previously refused by the Board on the site with reference to poor design layout and DMURS.

8.4.26. DMURS promote a street hierarchy approach. The proposed development has a central 6m wide road and 5.5m roads extending from this. The application includes a DMURS Statement of Compliance which refers to a hierarchy of widths in relation to the proposed road layout only. However, DMURS promotes applying a hierarchical approach to the applications of materials to assist in wayfinding (section 4.2.6 of DMURS). Beyond street width which differs by 0.5m, there is a lack of visual distinction between these roads in my view and associated failure to clearly define the hierarchy of streets in the proposal. This is contrary to both DMURS and Objectives in the Development Plan outlined above.

8.4.27. DMURS also ask that cul-de-sacs do not dominate layouts, and while I am satisfied that the proposed layout is not dominated by cul-de-sacs, these could be more limited and there are a number of cul-de-sacs that offer little to the street arrangement and undermine the layout in my view. This includes the cul-de-sac adjacent to houses 126-129 and 12-15. There is also a lack of home zones in the street arrangement, and particularly the cul-de-sac adjacent to houses 1-7 would benefit from a homezone approach in my view. In making these assessments I am mindful of DMURS promotion of legible street layouts and associated recommendation that use of cul-de-sacs be limited (section 3.3.1), as well as the promotion of 'liveable streets' with the use of homezones (section 4.3.4). Overall, in

my view the street arrangement lacks a hierarchy approach and some of the cul-de-sacs included undermine the overall legibility of the layout.

- 8.4.28. Section 4.4.1 of DMURS identifies preferred lane widths of between 3-3.25m for arterial and link streets (equating to a two-lane carriageway width of 6-6.5m), and a standard carriageway width on local streets of between 5-5.5m (i.e. lane widths of 2.5m-2.75m). In the proposed development, the main central road through the site is 6m while the roads extending from this are 5.5m. As such, the main central road through the site meets the proportions of a link street, while those extending from this road meet the proportions of a local street with reference to DMURS. In relation to on street parking, DMURS states that parallel parking should be used in arterial and link streets, with perpendicular or angled spaces in lower speed environments (section 4.4.9). DMURS also states on page 121 that 'perpendicular spaces generally require a minimum carriageway width of 6m, which is generally too wide for Local streets', as such the main central road through the site in my view is a link street according to DMURS and should utilise a parallel bay arrangement for any on-street parking and not perpendicular bays.
- 8.4.29. The proposed development includes perpendicular on street car parking spaces on both the main link road in the scheme as well as to the local roads extending from this. Indeed, the main central link road proposed is primarily lined with perpendicular spaces, with only 5 breaks in a strip of 51 car parking spaces. While DMURS states that to reduce the visual impact of parking, the number of spaces per a bay should be generally limited to three parallel spaces or six perpendicular spaces. The central link road through the site is visually dominated by parking and has a perpendicular parking arrangement that is poorly suited to the function of the road as the main link through the site. Overall, I am not satisfied that the approach to on street parking in the proposed development reflects the guidance in DMURS. I note that the application includes a DMURS Statement of Compliance, however this does not refer to the proposed on-street parking arrangement in the development.
- 8.4.30. In my opinion, the appeal site at over 7ha and with few constraints dictating the layout across the site has ample opportunity for a street layout to fully reflect the recommendations in DMURS. DMURS promotes street hierarchy, limited use of cul-de-sacs, use of homezones and appropriate arrangements to on-street parking to improve legibility, reduce speeds and ensure good quality and safe street

environments. The proposed development has failed to incorporate these recommendations in my view, for those reasons set out above, and in light of the wider design assessment in this report as well as the points outlined here, I am recommending that the application be refused as a result of this poor design.

- 8.4.31. Also with respect to layout, I note a third party appeal submission that states that the required separation of 22m is not achieved within the proposed development design. Section 2.6 of the Development Management Manual in the Development Plan states with respect to overlooking that “In general, a minimum distance of 22m between opposing above ground floor windows will be required for habitable rooms. In cases where an innovative design solution is proposed, this standard may be relaxed.” The proposed development is broadly in keeping with this general minimum distance under the Development Plan. There is one area, between the rear of duplex blocks 1-4 and house types B, where this distance is approximately 20m. However, I am satisfied that no significant adverse impact would result to the privacy of future occupiers.
- 8.4.32. I note third party appeal submissions concerning a lack of open space in the proposed development. Reference is made to The Sustainable Residential Development Guidelines, and that on green-field sites, public open space should be provided at a minimum rate of 15% (paragraph 4.20, first bullet point). I note Objective ROS17 of the Development Plan which states that the provision of public open space should comply with the quantitative standards set out in Section 14.5.4 of the plan. Section 14.5.4 of the plan requires development proposals to include a neighbourhood park. Table 14-1 of the plan defines this neighbourhood park requirement as 15% of the total area of a residential site to be allocated to public open space, with a neighbourhood park accounting for 10% of this allocation. Objective ROS11 of the plan requires open space in new residential development to be in accordance with standards in the plan, as well as national planning policy guidance including the Sustainable Residential Development Guidelines.
- 8.4.33. The Council’s Planner’s Report states that approximately 12.6% of the site will be open space in accordance with guidance provided for in the Wexford County Development Plan 2022-2028.

- 8.4.34. The proposed development incorporates 9,225.97sqm of public open space formed of 4 areas. The largest of these, public open space no.2 is situated centrally within the site and comprised of 7,031.26sqm. The total site area is 7.4 hectares or 74,000sqm and as such the total open space provision equates to 12.4% of the site area, with public open space no.2 equating to 9.5%. As such, in my opinion the proposed development does not reflect the quantitative standards for open space set out in the Development Plan.
- 8.4.35. Section 14.5.4 of the plan states that in relation to deviations from quantitative standards, the Planning Authority may accept in lieu provision or payment of a special contribution, and that the developer must invest the equivalent monetary value of the deficit in the 15% in improvements to the quality of the scheme.
- 8.4.36. In the current appeal the Planning Authority has not acknowledged any shortfall in open space provision from the required 15% described in the Development Plan. No in lieu provision or payment is identified by the Applicant. As a result, of the foregoing, in my opinion the proposed development is contrary to standards in the Development Plan regarding open space and I agree with the appeal in this regard, and the application be refused in relation to the same.
- 8.4.37. Boundary treatment
- 8.4.38. I note third party appeal submissions in relation to proposed boundary treatment to existing neighbouring properties. Representations are raised with regards to unnecessary removal of vegetation (hedgerow/trees) and other representations request that boundaries comprise 2m high block walls. Reference is made to Objective L04 concerning the minimisation of adverse visual impacts and retention of natural features and characteristics of the site.
- 8.4.39. I note Objective GI01 of the plan in relation to the retention of trees and hedgerow as habitat features that allow landscape connections for species as much as possible. The application includes an Arboricultural Report and associated Tree Constraints Plans. These describe the removal of most of the existing tree and hedgerow vegetation on the site. I address ecology separately below, while here I deal with the amenity aspects of boundary treatment.
- 8.4.40. A Boundary Treatment Plan (drawing no.3) is submitted with the application, this alongside the tree constraints plans, confirm that there are hedgerow areas intended

to be retained along boundaries to the southwest, northwest and north of the site. These are largely situated within areas outside of the redline boundary, and it is proposed within and along the appeal site boundary, to situate new boundary treatment. This differs in appearance depending upon whether the boundary is to the public realm or between private areas. Generally, between proposed dwelling plots and existing dwelling plots, it is proposed to situate a 2m high concrete post and panel wall. The Planning Authority included a condition no.35 that requires that inter-site boundaries and boundaries to public areas be 1.8m high rendered walls of concrete block construction.

8.4.41. I am satisfied that the proposed boundary treatment would ensure a secure and appropriate finish between the proposed and existing dwelling plots. I am also satisfied that from an amenity perspective, the removal of boundary vegetation and replacement with a solid boundary treatment is appropriate and reflective of a residential use of the site. The treatment is sufficiently high and solid in my view to perform a secure boundary line. The final material finish, i.e. rendered or plastered, could be secured by condition (in the event that the Board elected to grant consent), similar to the condition proposed by the Local Planning Authority with respect to inter-site boundaries referenced above.

8.5. Impact upon the amenity of existing occupiers

8.5.1. I note concerns raised in third party appeal submissions regarding the lack of assessment of amenity impact within the Local Planning Authority's Planner's Report for the application, and reference to the residential zoning of lands adjacent to the site with the objective to have regard to residential amenity. I have outlined in section 8.2 above matters with respect to zoning. In this section of my report, I address existing residential amenity matters raised in appeal submissions.

8.5.2. Daylight, sunlight and overshadowing

8.5.3. I note third party appeal submissions with respect to the potential for overshadowing of existing dwelling plots by the proposed development and the lack of a daylight, sunlight and overshadowing assessment with the application.

8.5.4. Objective TV16 requires a Design Statement to accompany schemes over 2ha, addressing details set out in the Development Management Manual for the plan. Section 2.6 of the Development Management Manual states that development should

protect the amenities of adjoining properties by not giving rise to undue overshadowing and daylight and sunlight levels, as a minimum, should be in accordance with Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE 2011) and British Standard (BS 8206) Lighting for Buildings, Part 2 Code of Practice for Daylighting or any update on these documents. In addition, and as noted above in section 8.4, Objective TV52 of the Development Plan states that development incorporating higher buildings (i.e. buildings that exceed the contextual prevailing height) will be facilitated where it has been demonstrated that the development complies with the assessment criteria set out in Section 3.2 of the Building Height Guidelines. This criteria includes that “Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment’s ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’.” In light of this policy context, in my view the application should have specifically addressed daylight, sunlight and overshadowing of existing adjacent dwellings, with reference to the BRE Guidelines.

8.5.5. The Applicant has provided shadow diagrams in their response to the application, however there is no specific daylight, sunlight or overshadowing analysis reflecting the methodology of the BRE Guidelines submitted with the application. The shadow diagrams do not assist in determining what daylight impact would be upon existing adjacent areas and do not quantify the degree of overshadowing of existing adjacent garden areas as would be required under the BRE Guidelines.

8.5.6. 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)

8.5.7. The guidelines also states that if a proposed development is taller or closer than this, a 25° line can be drawn from 1.6m above ground from adjacent properties, and if the proposed development is below this line, then it is unlikely to have a substantial effect on the diffuse skylight enjoyed by the existing building.

- 8.5.8. Many of the existing properties surrounding the proposed development are situated sufficiently distant to the proposed development to ensure that loss of light will not be experienced or would be so small as to be imperceptible. However, properties at no. 3 Lowney's Estate, Mon Abri, Whitstable, no.'s 8&9 Estuary View and those most proximate to the proposed development on the R741 are sufficiently close in my view to require consideration with respect to daylight, sunlight and overshadowing.
- 8.5.9. In general, the proposed arrangement is reflective of a standard residential neighbourhood with adjacencies and scale/mass to buildings that would be typical of any residential area. I have highlighted concern above with regards adjacencies to Mon Abri, Whitstable and no.3 Lowney's Estate, which given the unconstrained nature of the appeal site, in my opinion a better layout could have been selected to ensure a more sensitive relationship in relation to overbearance. However, with respect to daylight and sunlight, even in the absence of specific data to quantify this impact, I am satisfied that impact is likely to be within acceptable parameters. This is due to the relatively low rise scale of houses proposed, being 2 storey where buildings are situated closest to boundaries with existing properties. With respect to overshadowing, the diagrams provided in the Applicant's response illustrate that impact is not significant in my view and likely to meet recommendations set out in the BRE Guidelines, albeit there is an absence of commentary to confirm this. The most pronounced impact from overshadowing will be to the northwest and to Mon Abri and Whitstable as well as the property between these dwellings. However, in my opinion this impact would not be significantly adverse.
- 8.5.10. Similar to my conclusions above in section 8.4 with respect to daylight, sunlight and overshadowing conditions within the proposed development, I do not consider the lack of a specific assessment to be sufficiently fundamental as to warrant a refusal. Therefore, in light of the lack of assessment of daylight and sunlight for both the proposed development and in relation to existing occupiers, and specifically Objectives TV52, TV16 and Development Management Manual section 2.6 of the Development Plan, I am recommending that the Board include a note on the decision in relation to insufficient assessment with regards to daylight, sunlight and overshadowing for the application.
- 8.5.11. Privacy – separation distances

- 8.5.12. I note third party appeal submissions with respect to potential adverse impact upon existing residents' privacy resulting from overlooking from the proposed development.
- 8.5.13. I note that section 2.6 of the Development Management Manual within the Development Plan states that proposed development should not give rise to undue overlooking of properties in the vicinity and in general minimum distances of 22m is required between opposing windows from first floor level.
- 8.5.14. In the proposed development, there are no adjacencies between first floor habitable windows in proposed buildings to existing buildings, in a direct arrangement of less than 22m. I also note that in general, where proposed houses are situated closest to boundaries with existing properties, a side flank is presented without windows, and therefore no undue overlooking would occur to existing garden areas. While the development of the site for residential dwellings with boundaries shared with existing properties will change the setting to those properties, and invariably result in greater perception of overlooking, this will not be harmful in my view, and would be reflective of incidental overlooking generally experienced in residential areas.
- 8.5.15. Septic tanks in the area
- 8.5.16. I note third party appeal submissions with respect to the lack of detail on submitted drawings to acknowledge the location of septic tanks serving existing properties and concern regarding the proximity of the proposed dwellings to these existing tanks.
- 8.5.17. In the Development Plan, section 8.3.4 Buffer Zones Around Public Wastewater Treatment and Table 8-1, relate to the distance that public wastewater treatment systems (serving 2 or more houses) should be from residential development. It is explicitly stated that the recommended distances can be reduced or increased subject to the Council's opinion of requirements. The table reflects EPA's guidance.
- 8.5.18. As I understand it, the septic tanks referred to in appeal submissions relate to private wastewater treatment and are associated with individual single dwellings. As such, the recommended distances under the Development Plan and EPA guidance would not apply.
- 8.5.19. I note that the Planning and Development Regulations 2001 (as amended) include a requirement to detail the location of septic tanks on site or layout plans in article

23(1)(a). Third party appeal submissions state that septic tanks are present in areas adjacent and proximate to the appeal site, however this matter is not addressed by either the Applicant or the Local Planning Authority.

8.5.20. However, I do not consider the absence of septic tanks on the submitted plans to be a fundamental flaw in the application. This matter could adequately be addressed by way of further information in my view, to determine the location of these septic tanks, and therefore ensure that there was no conflict as a result of the construction of the proposed development. I note that the EPA in their Code of Practice for Domestic Waste Water Treatment Systems describe minimum separation distances which would be a useful benchmark in this regard. As I am not recommending that the application be approved, I am not suggesting that a request for further information be actioned in relation to this, and instead I am recommending that the Board include a note relating to this matter on the order.

8.5.21. Impact during construction

8.5.22. I note third party appeal submissions with respect to construction related impact, particularly noise and transport. I deal with transport separately below in section 8.6, but include consideration of general construction traffic impact here. I note that the Applicant's response that construction related impact would be temporary and reflective of standard development impact. A Construction Management Plan is included in the application submission and describes measures to manage and reduce potential construction related impacts.

8.5.23. I acknowledge that the construction of a development on the appeal site would result in disturbance to adjacent residents. However, this will be on a temporary basis and can be mitigated through measures in a final construction environmental management plan (CEMP) that can be secured by condition. This would be based upon the construction management plan included with the application. This type of disturbance is an inevitable and typical consequence of any development, and I am satisfied that with the application of mitigation as described in the CEMP, this impact will be within acceptable parameters. All contractors on the site will be required to adhere to mitigation described in the CEMP. With the application of mitigation measures through a detailed CEMP, I have no concerns regarding construction impacts (or construction transport impacts) resulting from the proposed development.

8.6. Traffic and transportation

- 8.6.1. I note third party appeal submissions with respect to traffic impact and a submission which included a report from a traffic consultant highlighting inadequacies with the application submission with respect to assessment of traffic impact, including the lack of a Road Safety Audit and Quality Audit.
- 8.6.2. I note Objectives TS81 requiring Traffic and Transportation Assessment (TTA) and TS82 requiring Road Safety Audits (RSAs) for certain developments in accordance with the Development Manual of the County Development Plan. The Development Management Manual in the Development Plan outlines in table 6-1 those developments that trigger a mandatory requirement for a TTA, including developments such as the appeal scheme which exceed 200 dwellings. Section 6.2.2 of the manual also states that an RSA will be required in all cases where a TTA has been requested on national and non-national roads.
- 8.6.3. The application includes a TTA which outlines the predicted impact that would result from vehicular traffic associated with the proposed development. The applications Planning Report & Statement of Consistency refers to the submission of both a TTA and RSA, however there is no RSA on the file. The lack of a specific RSA for the proposed development is contrary to Objective TS82 of the Development Plan highlighted above. I do not consider the lack of an RSA sufficient reason in itself to warrant refusal of the application, however I am recommending that the Board include a note in relation to this omission on its order.
- 8.6.4. In relation to the data submitted as part of the TTA, third party submissions raise concern that the baseline traffic volumes were recorded during Covid-19 pandemic lockdowns when traffic would have been reduced. In addition, it is suggested that the survey areas relied upon to inform estimation of traffic growth are not representative of the appeal site location. I note that while the TTA is dated December 2022, the traffic counts it uses were carried out in October 2020, and the application was assessed in 2023. In my view, opportunity might reasonably have been taken by the applicant to update the traffic count data relied upon and it is likely that counts undertaken during lockdown periods would have reflected a lower traffic volume than in post-lockdown conditions. However, in my view, the data in the TTA relies upon traffic generation estimates using a legitimate approach, using Trics software. The

results of the TTA demonstrate that roads tested surrounding the appeal site will operate well within capacity with the proposed development in place into the future year 2041. In my opinion, it is unlikely that given the capacity indicated (with highest ratio of flow to capacity at 66% on the R741 and less than this on other adjacent roads tested), that this would change significantly using traffic counts in a post-lockdown period. In my view, there is ample sufficient capacity to accommodate the proposed development. The TTA also assesses the access junction on the R741, demonstrating that this has sufficient capacity to accommodate the proposed development.

- 8.6.5. I note third party submission that the access from the proposed development onto the Riverside Road is unnecessary and will act as a loop or ring road to the R741. I do not agree that this is a likely consequence of the proposed design, as the route back onto the R741 via the site and Riverside would be convoluted, involving a number of manoeuvres onto low-speed streets, without much gain in distance, as such it would not be a desirable option for drivers. Removal of the vehicular access to Riverside would also reduce permeability of the scheme, therefore I am not recommending any alteration to the proposed design in this regard.
- 8.6.6. I note third party appeal submissions stating that no sightlines and no vehicle tracking is submitted with the application. I concur that there are no plans on the file to illustrate appropriate sightlines or tracking, however in my view there is nothing inherent in the proposed design that would prevent achievement of standards regarding the same. Therefore, these matters can be appropriately resolved by condition, in the event that the Board determined to approve the application.
- 8.6.7. I note a third party appeal submission suggesting that the car parking provision is insufficient in the proposed development. The proposed development includes 436 car parking spaces. The Wexford County Development Plan 2022-2028 sets out car parking standards in table 6-7 of the Development Management Manual, as 2 per a house and 1 per an apartment, as well as for creche use as 1 per 4 children plus 1 per employee, with no standards expressed with respect to the quantum of visitor parking that is permissible. This would equate to 382 spaces for the proposed residential element of the development and 13.5 for the creche use, with the remaining 40.5 spaces formed of visitor parking. While the Development Plan does not specify standards with respect to visitor car parking, the Apartment Guidelines

state that in peripheral locations such as the appeal site, 1 visitor space per 3 or 4 apartments would generally be required. For every 3 apartments in the proposed development, that would amount to 20.6 spaces, and therefore much less than the proposed 40 visitor bays. I also note that the previously refused appeal on the site for 98 units, included 19 visitor spaces, and was refused by the Board in part due to an overprovision of car parking, and the Inspector stated in their report that the quantum of visitor spaces proposed appeared excessive. I have also identified above in section 8.4 with respect to layout design, why I consider the arrangement of on-street parking along the central link road in the scheme to be unacceptable, and the excessive quantum of visitor spaces proposed interrelates to this matter in my view. In my view, the standards set out in table 6-7 in the Development Plan with respect to parking can be applied flexibly, as section 1.1 of the Development Management Manual in the plan explicitly states that the Planning Authority reserves the right to set aside, amend, update or replace standards in the manual. However, the quantum of visitor spaces proposed is not supported in standards under either the Development Plan or Apartment Guidelines, and appears excessive in my view, contributing to a poor on-street car parking arrangement and overall layout for the proposed development, and I am recommending that the Board refuse the application for this reason.

- 8.6.8. I note third party submissions with respect to the lack of public transport serving the site. The application documents indicate that in the consideration of sustainable transport modes, the site is heavily reliant upon pedestrian links to Wexford Town. Bus route no.877 has stops to the north and south of the appeal site on the R741 however it is an infrequent loop route and therefore does not provide a direct connection in both directions. Therefore, the most direct sustainable transport mode connection to and from the appeal site to the town would be via foot or bicycle over Wexford Bridge. There is sufficient pedestrian infrastructure to support this, however cycle infrastructure is not accommodated. The appeal site is approximately a 20-minute walk to the Town. I therefore concur with the Appellants that there is a lack of public transport serving the site, however this does not preclude residential development on the site as a point of first principle, and an assessment is required of wider considerations of connections, as set out above in sections 8.2 and 8.3, and below in section 8.7 of my report.

8.6.9. I note third party concern raised in appeal submissions regarding adverse impact as a result of construction traffic associated with the proposed development. The application includes an Outline Construction Management Plan which includes specific consideration of construction traffic in section 5. It is proposed that all construction traffic use the R741 to access and egress the site, avoiding Wexford Town Centre and other adjacent local roads including Riverside. On-site parking is proposed for construction workers and measures will be put in place to keep public roads free of much and debris. I am satisfied that with the application of mitigation through a final CEMP which could be secured by condition, construction traffic impact would be within acceptable parameters.

8.7. **Infrastructure**

8.7.1. Social infrastructure

8.7.2. I note third party appeal submissions with respect to insufficient community facilities and that the applicants submitted audit in relation to this is inadequate, particularly in relation to a lack of consideration of educational facilities.

8.7.3. I note under the Development Plan that Objective SC22 requires that planning applications for significant residential developments include an assessment of existing schools in the area and their capacity in accordance with Objective SC37. Objective SC37 requires that all new residential development applications of 100 units or more on zoned lands to be accompanied by a Social Infrastructure Assessment (SIA), and should include details of playgrounds, parks and other green spaces, education, childcare, health and others such as shops, banks, post offices, community meeting rooms/centres and recreational facilities.

8.7.4. As I outline above in section 8.2 of this report, the appeal site is not situated on zoned lands in my view, as such, the application of Objectives SC22 and SC37 is unclear. However, in reading chapter 15 of the Development Plan as a complete document, and not just these objectives in isolation, it is my view that it would be reasonable to conclude that the intention is that these requirements apply to a development of the scale of the appeal scheme, albeit I note that the Planner's Report does not refer to these Objectives (whilst also considering the site as zoned). In coming to this conclusion, I refer to page 643 of the Development Plan which refers to the requirement for SIAs without reference to zoned lands, as well as page

637 of the plan which states that there is a shortage of school places in Wexford Town and that applications for significant residential development should identify the demand for school places and capacity of exiting schools, again without reference to zoning.

- 8.7.5. The application includes a Social Infrastructure Audit, however it does not consider schools or a number of the other types of infrastructure set out in Objective SC37, with only reference to road, rail, bus, hospital and commercial/grocery store infrastructure. As a result, the submitted SIA is inadequate and does not conform with requirements under the Development Plan. In my opinion, I agree with the appeal grounds in relation to this matter, and recommend that the application be refused with regards to Objectives SC22 and SC37 of the Wexford County Development Plan 2022-2028.
- 8.7.6. Water infrastructure
- 8.7.7. I note third party appeal submission with respect to assessment of wastewater treatment plant (WWTP) capacity.
- 8.7.8. Uisce Éireann (formally Irish Water) state in their consultation reply on the application, that 'The Wexford Town wastewater treatment plant (WWTP) has currently sufficiently capacity to accommodate this development. However, note that Uisce Éireann have issued a large volume of COF's (confirmation of feasibility) for this area. Should a sufficient number of these developments connect to the network in the Interim prior to the application receiving a connection offer there may be insufficient capacity.'
- 8.7.9. The Planner's Report recommends that the planning permission be limited to 5 years in light of the capacity caveat outlined in Uisce Éireann's response. Although I note that the application submission does not appear to request a longer permission period, so this limitation to 5 years would only reflect a standard consent period.
- 8.7.10. For the purposes of my planning assessment, Uisce Éireann has provided sufficient confirmation of feasibility for the proposed development. If the Board were minded to grant planning permission, I would recommend that a condition be included to require connection agreements with Uisce Éireann for water supply and wastewater prior to commencement of the development. As a result, the caveat highlighted is for the Developer to note, as any planning permission would be subject to a connection

agreement with Uisce Éireann. Although I note that the Local Planning Authority's decision does not include a condition requiring such an agreement, however, for the purposes of this appeal, if the development were to be approved with a condition requiring connection agreements, if capacity becomes insufficient, the development will not be able to commence.

8.8. Flooding

- 8.8.1. I note third party appeal submissions with respect to flooding and the view of those local residents that the appeal site and adjacent areas are liable to flooding. Photos were included in grounds of appeal to demonstrating this flooding. Third party submissions also raise concern at the lack of nature-based drainage systems in the proposed development.
- 8.8.2. I note Objectives in the Development Plan, including GI01 relating to the integration of Sustainable Drainage Systems (SuDS) and nature-based solutions into development, as well as the creation of open drainage ditches instead of underground pipes to accommodate wetland species; FRM02 concerning the implementation of the SFRA for the Development Plan; FRM07 regarding compliance with the Planning System and Flood Risk Management Guidelines; FRM14 requiring the use of SuDS and nature-based solutions for new development; and SWM01 requiring the application of SuDS in accordance with best practice and with prioritisation of the use of nature-based solutions where possible.
- 8.8.3. The applicant states in their submitted Planning Report & Statement of Consistency with the application, that the site is not located in a flood zone with an extract from the OPW flood map to illustrate this. The application documents describe the incorporation of storm water attenuation to address a 1 in 100 year extreme storm event increased for predicted climate change values as well as SuDS and attenuation measures. These measures are described in the Engineering Services Report and associated drawings. The proposed surface water drainage system has outfalls onto the R741 close to the main vehicular site entrance and at the proposed pedestrian footpath link and is designed in accordance with best practice including the Greater Dublin Strategic Drainage Study.
- 8.8.4. While I acknowledge third party appeal submissions with respect to flooding on the site, I have reviewed the flood mapping information on the OPW website and I am

satisfied that the appeal site is not subject to flooding and there is no formally recorded past flooding events on or immediately adjacent to the appeal site. Both the Applicant and third parties reference the existing soil condition on the site as containing marl, which contains clay and has restricted permeability. The Applicant's response to the appeal, states that given the existing soil condition, surface water permeates slowly into the ground, sitting on the surface for long periods after heavy rainfall. There is an existing network of agricultural ditches on the appeal site, but no stream is identified. Following my visit to the site, I am satisfied with the applicant's description in this regard.

- 8.8.5. In my opinion, the proposed storm water, attenuation and surface water drainage measures will reduce pooling of water on the site and subsequent discharge to neighbouring sites. I recognise third party concerns with respect to this matter, however in my opinion, the incorporation of extensive SuDS across the site and proper management of surface water drainage, will ensure that the risk of flooding does not increase either on the appeal site or to adjacent areas.
- 8.8.6. In relation to nature based solutions, page 431 of the Development Plan concerning surface water management, identifies that this can include swales. The submitted Storm Drainage Layout Drawing no.'s 0501-0503 show the proposed incorporation of swales within the central public open space and as such I am satisfied that there is contribution to the overall surface water management of the proposed development through nature based solutions in accordance with Objectives in the Development Plan.
- 8.8.7. From the third party appeal submissions received it would appear that there are drainage issues in the area, and the Applicant acknowledges the poor drainage conditions on the existing site in their response. However, in my opinion, the proposed development will not exacerbate this in my view. I acknowledge the photographic evidence provided and that saturation occurs during large rainfall events, however the incorporation of extensive SuDS, including attenuation tanks, and controlled, filtered discharge into the existing drainage network, adequately responds to this. Overall, I consider that the subject site in its current condition does not adequately drain during rainfall events and the proposed development will improve this through attenuation measures. As a result, I am content on the basis of

the information provided to me, that the proposed development is not likely to increase the risk of flooding elsewhere.

8.9. Ecology

- 8.9.1. I note third party appeal submissions with respect to ecology and specifically in relation to the removal of hedgerow/trees, a bioretention area that is tokenistic, failure to address cumulative impact, use of herbicide, insufficient bird/bat survey, destruction of natural habitat and lack of ecological mitigation through conditions.
- 8.9.2. I address European sites as part of my Appropriate Assessment below in section 9, while in this part of my report I assess general biodiversity impact.
- 8.9.3. I note Objectives in the Development Plan, including GI01 concerning the retention and enhancement of landscape connections such as trees and hedgerows in development or details of compensation/mitigation where this is not possible, as well as designing development footprint to avoid impact on high value biodiversity; ROS19 concerning the integration of biodiversity and optimisation of existing features into the design of residential schemes; and section 7.4 of the Development Management Manual concerning landscape and biodiversity.
- 8.9.4. The application includes an Ecological Impact Assessment (EclA). This confirms that the nearest surface water features to the site are the Lower Slaney Estuary and the Burgess River, both located approximately 125m from the site. A survey of habitats on the site was also conducted and is described as follows: the majority of the site is made up of Improved Agricultural Grassland GA1; linear strips of shrubs with occasional trees classified as Hedgerows WL1 are situated to the site boundaries and on central lines through the middle of the site delineating field boundaries; there are 5 areas of Scrub WS1 identified; Mixed Broadleaved/Conifer Woodland WD2 is situated on the southern boundary of the site; there are small areas of tarmac and artificial surfaces being colonized by herbaceous plants on an access road to the site on the south eastern boundary classified as Recolonizing Bare Ground ED3; and Drainage Ditches FW4 are found along some of the interior hedgerows.
- 8.9.5. In relation to bats (a protected species under wildlife legislation in Ireland), a preliminary roost assessment was carried out alongside a desktop assessment of the area, which concluded that the site is likely to be important for local bat populations, offering moderate roosting potential and with high potential for use by

foraging and/or commuting bats. As such a more comprehensive bat survey was carried out and is included with the application. This contains the results and analysis of dusk and dawn surveys undertaken on the site on 5th to 7th July. Bats were not confirmed to be roosting at the site, and no evidence of current or historic roosting was found, however given the context of the area and condition of the site, it is considered to be of 'High' likelihood to support roosting bats. Potential roosting opportunities are also present in the surroundings. A high level of bat activity was recorded on the site with 220 occurrences, with six species encountered, specifically Common pipistrelle, Soprano pipistrelle, Nathusius' pipistrelle, Lesser noctule, Brown long-eared bat, and Natterer's Bat, all of which are common and widespread in Ireland.

8.9.6. With respect to other mammals, the EclA acknowledges the presence of otter in the area (a protected species), and during the site survey, four hedgehogs were identified (a protected species). No evidence of badger was observed on the site. One fox was identified during the site walkover and footprints observed on the site could belong to foxes or cats. No amphibians were recorded during the site survey, however common frog (a protected species) is present in the wider area and seasonal drains and small ponds occurring on the site during heavy rainfall would provide habitat for this species. A number of common butterflies are likely to occur on the site, however no species of conservation concern on the Irish Red List of butterflies are predicted to occur due to the absence of specialist habitat. During the site survey, one invasive plant species was found, Horsetail.

8.9.7. A Bird Survey Report is also included with the application. This describes site surveys undertaken with the following bird species recorded in, over or immediately proximate to the site: Sparrowhawk; Long-eared Owl; Mallard; Grey Heron; Oystercatcher; Curlew; Black-headed Gull; Lesser Black-headed Gull; Barn Swallow; House Martin; Starling; Goldcrest; House Sparrow; Linnet; Goldcrest; Common Snipe, Greenfinch; Meadow Pipet; Yellowhammer and Redwing. Other bird species were also observed at Wexford Harbour and inform my Appropriate Assessment in section 9 below. The submitted survey describes that the most significant findings were the presence of four red listed species, Yellowhammer, Redwing, Common Snipe and Meadow Pipet on the site. The Common Snipe was the most frequently occurring with 97 individuals recorded on site during the wintering survey walkover.

While Light-Bellied Brent Geese were seen at Wexford Harbour during surveys, they were not observed on the subject site during wintering bird surveys. However, the subject site is considered to be a wintering location for Greenland White-fronted Geese and Light-Bellied Brent Geese given the context of the area and habitats present. Hen harrier is a species previously known to hunt within the site but was not observed during dusk and dawn surveys.

- 8.9.8. An Addendum Bird Survey was included in the Applicant's Response to the appeal. This included an additional survey point within the area of scrubland to the south west portion of the site. However, the report makes it clear that the original surveys would have recorded any relevant activity in this scrubland area in any case (page 28). There was no evidence of Hen Harrier in this additional survey, and no evidence of any current or historical nesting, in particularly for ground nesting species.
- 8.9.9. In relation to potential impact, this relates to habitat loss, temporary disturbance and displacement of species. The application also includes an Arboricultural Report and associated Tree Constraints Plans. These describe the removal of most of the existing tree and hedgerow vegetation on the site. Section 5.7 of the EclA includes a summary of ecological features, and states that as habitats present on the site are resilient and widespread, they do not require detailed assessment, in addition significant impact on mammals and invertebrates is scoped out. Amphibians are not scoped out. However, the EclA states in section 6 that the only important ecological feature to be impacted during operations are foraging bats. The submitted Bat Survey Report states that bat fauna within the site will be affected during both the construction and operational phase, from loss and fragmentation of habitat, i.e. treelines and hedgerows for foraging bats, and potential bat roosts in trees, resulting in moderate negative impact. Mitigation is outlined in 4.1 of the Bat Survey and section 7 of the EclA, and includes pre-construction surveys, with measures to be implemented in the event that bats are found. An experience ecologist should be on site during construction works and site clearance, and during operation, external lighting should be sensitive to bats. Measures for ecological enhancement are also described, including the incorporation of bat boxes in the scheme. With the incorporation of mitigation, overall impact upon bat populations is predicted to be low.

- 8.9.10. The EclA also highlights potential impact with respect to the spread of invasive plant species, Horsetail, found on the site. Mitigation measures to manage and prevent the spread of this are described in section 7 of the EclA. Mitigation is also described with respect to the amphibians on page 32 of the EclA under the heading Operational Phase, but relates to the maintenance of water levels in any drains in the context of construction.
- 8.9.11. Potential cumulative impacts are addressed in section 6.3 of the EclA, including two planning applications proximate to the site. A planning application Reg. Ref. 20221603 at Tincone and Burgess Ardavan Co. Wexford is not acknowledged in the submitted reports and is highlighted by Appellants. The EclA points to development being planned in the area under the Wexford County Development Plan 2022-2028, however as highlighted in section 8.2 of my report above, the Development Plan has not zoned lands in Wexford Town and surrounding areas where the subject site is located.
- 8.9.12. Enhancement measures are set out in section 8 of the EclA, and include bat boxes, bird boxes, nest boxes, bird feeders, native plant species and wildflower that support pollinators, fruiting trees to provide food for insects, birds and mammals, preservation of existing hedgerow where possible and substantial tree planting.
- 8.9.13. In my opinion, the conclusions of the EclA do not comprehensively or adequately identify the potential impacts of the proposed development. Scrub, hedgerows, woodland and treelines are key ecological feature for the site and support a range of species. The grassland on the site also supports bird species. However, the removal of these habitats are not addressed with respect to potential consequential impact upon the species they support, with the exception of bats. Mammals (with the exception of bats) are scoped out of the assessment as they are either not likely to be present or not significantly impacted by the proposal (page 28 of the EclA), however the surveys of the site identify otter as present in the area, and that hedgehog was found on the site, both of which are protected species. While significant impact may be reduced given the low (or no) presence of these species recorded on the site, potential for their presence exists, and therefore the potential for impact exists, and mitigation would therefore be appropriate to reduce that impact to acceptable parameters. Impact upon bird species is not comprehensively considered, and confined to consideration of linkages to European sites, rather than

wider biodiversity considerations. No mitigation is described to reduce potential impact upon birds, instead with reliance upon habitat in the surrounding area to replace what will be lost on the site. Suitable mitigation might include the clearance of vegetation outside of bird breeding season and wintering bird season; however, this is not identified in the EclA. With respect to cumulative impact, the EclA does not sufficiently address this in my view, as it fails to identify a nearby planning approval 20221603 which will have impact upon bird and mammals species also supported by the subject site. Reliance upon the Wexford County Development Plan 2022-2028 for the overall planning of development in the area is also flawed, as the site area and surroundings are not zoned under the plan.

8.9.14. Overall, I am not satisfied that potential ecological impacts of the proposed development have been comprehensively identified in the application documents or that adequate mitigation is described. As a result, the development proposal is deficient in this regard with reference to Objectives GI01, ROS19 and section 7.4 of the Development Management Manual. As such, I recommend that the application be refused, and I agree with the appeal with regards to the same.

8.10. **Archaeology**

8.10.1. I note third party appeal submissions with respect to the consultation response from the Department of Housing, Local Government and Heritage to the planning application with respect to archaeology, and how the Local Planning Authority considered this matter. There is no archaeological assessment submitted as part of the application or in response to this appeal.

8.10.2. The Department specifically request the Local Planning Authority to request an archaeological impact assessment via Further Information. The Department states that the site may have been suitable for settlements in the past due to its proximity to the river. It states that should significant archaeological remains be found, refusal might be recommended, or further monitoring, excavation or revised layout. They concluded that "It is the Departments view that a final decision should not be made on the application until the Planning Authority, or the Department has had the opportunity to evaluate the Archaeological Assessment." The Planner's Report states with respect to archaeology that An Archaeological Assessment has been requested by the Department and is included as a condition. There is no explanation

provided as to why it was considered this matter could be appropriately dealt with by way of condition in preference to a request for further information.

- 8.10.3. Objective AH04 of the Wexford County Development Plan 2022-2028 states that full consideration should be given to the protection of archaeological heritage when approving development, and that as part of this, regard should be had to advice and recommendations of the National Monuments Services. The National Monuments Services operates under the Department of Housing, Local Government and Heritage. Objective AH05 of the plan requires archaeological assessment and/or investigation by qualified persons for development that may, due to its size, location or nature, have significant effect upon archaeology.
- 8.10.4. The appeal site is not identified as being within an archaeological heritage area, however the site is undeveloped, and therefore potential exists for currently unknown undisturbed archaeological features. The Department have clearly identified that the location of the site gives it potential for such features. Objectives under the Development Plan asks the Planning Authority to take into account views of the National Monuments Service which forms part of the Department and requires archaeological assessments for applications that may affect archaeology due to their location or size.
- 8.10.5. In my opinion, the Planner's Report does not have proper regard to Objectives AH04 or AH05. There is no explanation provided as to why a condition is relied upon in preference to a request for further information to address this matter (I set out procedural considerations with respect to further information requests below in section 8.11). Reliance upon a condition can be problematic if the results of archaeological testing reveal features that require preservation and render the proposed development unsuitable, and the Department clearly highlight that a recommendation of refusal or layout change could be a consequence of the results of archaeological investigations on the site. As such, and in the absence of any explanation as to otherwise, a condition would not adequately address the Departments response in my opinion.
- 8.10.6. I am not recommending that the Board address this matter via a request for further information as I am recommending that permission be refused for other reasons. However, this matter relates to a lack of data that would be adequately addressed by

way of a request for further information, and at this stage (in the absence of that data) it cannot be determined whether there is any related flaw in the proposed design that would warrant a refusal. As a result, and in reflection of the Departments response and Objectives AH04 and AH05 of the Development Plan, I am recommending that the Board include a note on the decision in relation to insufficient archaeological assessment for the application.

8.11. Other procedural matters

- 8.11.1. I note a third party appeal submission in relation to a limitation on Local Planning Authorities powers to request further information on LRD applications, and that this has hindered the process. The Local Planning Authority is able under section 33(2)(ga) of the Planning and Development Act 2000 (as amended) to request further information, and particularly in light of matters raised during the public participation process (as well as in relation to technical or environmental detail). An Bord Pleanála is also able to request further information (section 142(7)(a) of the Act). In this case, the Local Planning Authority did not elect to request further information, however this was a matter for the Local Planning Authority to determine. I have outlined above in section 8.10 why I consider a request for further information would have been appropriate in this case with respect to archaeology and this would be in accordance with the 2000 Act (as amended) in my view, however I am not recommending a further information request with respect to this appeal as my recommendation is that the proposed development be refused for other unrelated reasons.
- 8.11.2. I note a third party appeal submission stating that the request for accessibility audit in the Local Planning Authority's pre-application opinion was not complied with, however I am satisfied that the submitted Traffic Impact Assessment sets out a detailed assessment of the predicted performance of access points to the site, specifically from the R741 as requested in the pre-application opinion.
- 8.11.3. A number of the third party appeals raise the matter of inaccuracies in site layout drawings with respect to existing neighbouring properties. The Applicant has addressed this directly in their response to the appeal submissions and provided a revised site layout plan that correctly demonstrates the configuration of existing properties in relation to the appeal site.

- 8.11.4. The third party appeal submissions refer to a lack of consideration by the Local Planning Authority in their Planner's Report of third party observations on the planning application. I have set out in detail the grounds of appeal and observations received on the appeal above in section 7. I have organised my assessment around, and directly addressed, matters raised in these third party submissions in section 8 of my report. I am satisfied that I have given due consideration to these matters.
- 8.11.5. I note a third party submission stating that legal interest in the land subject to the appeal has not been demonstrated. However, I am satisfied that the Applicant's application form indicates that they are not the legal owner of the site and a letter of consent is included from the owners of the appeal site, with respect to the lodging of the application.
- 8.11.6. I note a third party appeal grounds that refers to errors in the Planner's Report by the Local Planning Authority. Many of the suggested errors relate to matters considered elsewhere in my assessment, design and mass, and the suitability of the location for the proposed development, as well as flood risk, archaeology, biodiversity and Appropriate Assessment. With respect to an inter-departmental response from an unidentified department, I concur that the responsible department is not clearly identified, but in reading the response and the Planner's Report together, it appears to me to be from the Water Services department and does not contain any fundamental matters relevant to my assessment of this appeal. I also note the suggestion around confusion in relation to references to Riverside Road, which a third party states does not exist, however I note other third party responses refer to this road which is also referenced by the Local Planning Authority and Applicant. Maps of the area indicate that Riverside is the road that runs to the north west of the appeal site and I refer to this as part of my site description above.
- 8.11.7. Errors within the Applicants documents are also highlighted, including references to the site as 'derelict' and to 'Ashford', as well as to the addition of 'sports and community centre' which do not form part of the proposal. In my view, these errors are typographical and are not intended to mislead, overall I am satisfied that such errors would not hinder my assessment.

9.0 **Appropriate Assessment**

- 9.1. I note third party appeal submissions stating that the submitted NIS is deficient and does not take into account species for the European sites and that site investigations are required in relation to surface water discharges into the Slaney Estuary.
- 9.2. This section of the report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the submitted Appropriate Assessment Screening Report and Natura Impact Statement (NIS) for the application subject to this appeal.
- 9.3. I have had regard to the submissions of the Appellants and observing parties on the appeal, as well as prescribed bodies and the report of the Planning Authority on the planning application in relation to the potential impacts on European sites, as part of the Natura 2000 Network of sites.
- 9.4. The Project and Its Characteristics
- 9.5. See the detailed description of the proposed development in section 2.0 above.
- 9.6. The European Sites Likely to be Affected (Stage I Screening)
- 9.7. The appeal site is currently formed of agricultural land bounded by residential dwellings and has an undeveloped greenfield state, with treelines and hedgerows occupying boundary areas. It is not located in or immediately adjacent to any European site. The nearest surface water features to the appeal site are the Burgess River 125m to the east and southeast and the Lower Slaney Estuary approximately 100m south of the site. The Burgess River is part of the Slaney & Wexford Harbour catchment and the Whitefort sub catchment and flows into the Lower Slaney Estuary, eventually entering Wexford Harbour. The Lower Slaney Estuary has an overall Water Framework Directive (WFD) Status of 'Poor' and the Burgess River has a WFD Status of 'Moderate'. The river and estuary are 'At Risk' of not meeting its 2027 WFD Objectives.
- 9.8. I have had regard to the submitted Appropriate Assessment screening report which identifies European sites sufficiently proximate or linked to the subject site, to require consideration of potential effects. These are listed below with approximate distance to the application site indicated:

- Slaney River Valley SAC (000718) 0.1km;
- Raven Point Nature Reserve SAC (000710) 4.6km;
- Screen Hills SAC (000708) 5.2km;
- Long Bank SAC (00216) 11km;
- Blackwater Bank SAC (002953) 13km;
- Carnsore Point SAC (002269) 14km;
- Wexford Harbour and Slob SPA (004076) 0.1km;
- The Raven SPA (004019) 4.6km;

9.9. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to European sites, and any potential pathways which may exist from the development site to a European site, as well as the information on file, including the appeal grounds and observations, as well as observations made on the application made by prescribed bodies, and I have also visited the site.

9.10. The qualifying interests of all European sites considered are listed below:

Table 9.1: European Sites/Location and Qualifying Interests (QI)

| Site (site code) and Conservation Objectives | Qualifying Interests (QI)/Species of Conservation Interest (SCI) (Source: EPA / NPWS) |
|--|---|
| Slaney River Valley SAC (000781). To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected. | Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] |

| | |
|--|---|
| | <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Alosa fallax fallax</i> (Twaite Shad) [1103]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><i>Phoca vitulina</i> (Harbour Seal) [1365]</p> |
| <p>Raven Point Nature Reserve SAC (000710). To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p> | <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) [2170]</p> <p>Humid dune slacks [2190]</p> |
| <p>Screen Hills SAC (000708). To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p> | <p>Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</p> <p>European dry heaths [4030]</p> |
| <p>Long Bank SAC (002161). To maintain the favourable</p> | <p>Sandbanks which are slightly covered by sea water all the time [1110]</p> |

| | |
|--|--|
| <p>conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p> | |
| <p>Blackwater Bank SAC (002953). To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p> | <p>Sandbanks which are slightly covered by sea water all the time [1110]</p> |
| <p>Carnsore Point SAC (002269). To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p> | <p>Mudflats and sandflats not covered by seawater at low tide [1140] Reefs [1170]</p> |
| <p>Wexford Harbour and Slobs SPA (004076). To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p> | <p>Little Grebe (<i>Tachybaptus ruficollis</i>) [A004] Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Grey Heron (<i>Ardea cinerea</i>) [A028] Bewick's Swan (<i>Cygnus columbianus bewickii</i>) [A037] Whooper Swan (<i>Cygnus cygnus</i>) [A038] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Wigeon (<i>Anas penelope</i>) [A050] Teal (<i>Anas crecca</i>) [A052]</p> |

| | |
|---|---|
| | <p>Mallard (<i>Anas platyrhynchos</i>) [A053] Pintail (<i>Anas acuta</i>) [A054] Scaup (<i>Aythya marila</i>) [A062] Goldeneye (<i>Bucephala clangula</i>) [A067] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Hen Harrier (<i>Circus cyaneus</i>) [A082] Coot (<i>Fulica atra</i>) [A125] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Lapwing (<i>Vanellus vanellus</i>) [A142] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] Little Tern (<i>Sterna albifrons</i>) [A195] Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395] Wetland and Waterbirds [A999]</p> |
| <p>The Raven SPA (004019). To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p> | <p>Red-throated Diver (<i>Gavia stellata</i>) [A001] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Common Scoter (<i>Melanitta nigra</i>) [A065] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Sanderling (<i>Calidris alba</i>) [A144] Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395]</p> |

9.11. Table 9.1 above reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.

9.12. Potential Effects on Designated Sites

9.13. The proposed development would not result in any direct habitat loss within any European site. While there are no exiting surface water features linking the site to European site areas, there is potential risk of water quality impacts arising during the construction phase, via indirect discharge of surface water into the Slaney River Valley SAC and the Wexford Harbour and Slobs SPA. Dust and noise during the construction phase are not anticipated to result in significant effects on the special conservation interest bird species/qualifying species of the Wexford Harbour and Slobs SPA and Slaney River SAC, due to the scale and short-term nature of the works. During the operational phase, surface water drainage will be designed in accordance with best practice requirements, and given the lack of linkage, there are no significant impacts on nearby European sites anticipated during operational phase. Similarly, no significant impact from erosion or transportation is predicted. There is a suitable habitat identified within the site footprint for Annex I or Annex II species, such as, Greenland White-fronted Goose, Hen harrier and Long-eared Owl. There will be reduction of suitable habitat for some protected bird species. No significant impact with respect to species disturbance is identified in the submitted report.

9.14. A Bird Survey Report is submitted with the application. This identified the following QI bird species for Wexford Harbour and Slobs SPA flying over the appeal site: Mallard; Grey Heron; Oystercatcher; Curlew; Black-headed Gull; and Lesser Black-headed Gull. While Light-bellied Brent Geese and Greenland White-fronted Geese were feeding at Wexford Harbour, they were not observed at the subject site during wintering bird surveys, however the submitted Bird Survey Report states that the site is considered to be a wintering-bird location for these species (page 24). The AA Screening Report also states that the site has suitable habitat for these species (page 25).

- 9.15. As a result of the foregoing, there is potential indirect connections to European sites at Slaney River Valley SAC and Wexford Harbour and Slobs SPA, as a result of potential water quality impact during construction phase and loss of suitable habitat for protected species and potential ex-situ QI species on the subject site. The submitted AA Screening Report states that while there will be loss of suitable habitat for Greenland White fronted Goose, Hen Harrier (QIs of Wexford Harbour and Slobs SPA) and Long-eared Owl (not a QI species) on the site, there is no reduction of habitat situated within any designated European site. The submitted AA Screening Report also states that there is extensive similar habitat areas situated around the subject site. As a result, impacts upon QI bird species of the aforementioned European sites are screened out. While no surface water linkage to European sites exists, the submitted report states that a stage 2 assessment is proceeded with out of an abundance of caution with respect to potential for surface water discharges during construction phase.
- 9.16. For the remaining European sites, Raven Point Nature Reserve SAC, Screen Hills SAC, The Raven SPA, Long Bank SAC, Blackwater Bank SAC, and Carnsore Point SAC, there are no potential impacts identified.
- 9.17. AA Screening Conclusion
- 9.18. I concur with the conclusions of the applicant's screening, that there is the possibility for significant effects on European sites at Slaney River Valley SAC and Wexford Harbour Slobs SPA, related to indirect hydrological surface water connections during construction phase. I note the bird survey identifies suitable habitat on the site for Light-bellied Brent Goose and White-fronted Goose QI species for Wexford Harbour and Slobs SPA, and that the AA screening report identifies suitable habitat on the site for Hen Harrier another QI of the Wexford Harbour and Slobs SPA. However, the Bird Survey Report details that there were no QI species recorded utilising the site. While the proposed development would result in loss of habitat suitable for any ex-situ species using the site, the Bird Survey did not record QI species utilising the site itself during the survey period, and the subject site is situated in a location where there are similar habitats reflected throughout the area. As a result, I am satisfied that there would be no significant impact, resulting from the proposed development in isolation, upon QI bird species as a result of loss of habitat on the subject site which would significantly affect the integrity of any European site. However,

consideration is required of in-combination effect, which I address further in this section of my report below. In terms of birds flying over the site, while noise and dust could also disturb QI bird species flying over the site, this impact is temporary and on a short-term basis and would not in my view have a significant impact upon the overall populations of QI species, given the low number of birds recorded flying over the site.

9.19. In my view, there is a possibility for significant effects on European sites as follows:-

- Slaney River Valley SAC and Wexford Harbour and Slobs SPA:
 - Disturbance and / or Displacement of Species – the subject site is proximate to the Slaney River Valley SAC and Wexford Slobs SPA. There is potential for contaminated surface water run-off from the appeal site, with weak indirect links to both the River Slaney Valley SAC and Wexford Harbour and Slobs SPA.

9.20. The specific conservation objectives and qualifying interest of the habitats for the potentially effected European sites relate to range, structure and conservation status. The specific conservation objectives for the species highlighted for the potentially effected European sites relate to population trends, range and habitat extent. Potential effects associated with the construction and operation of the proposed development have been highlighted above, which have the potential to affect the conservation objectives supporting the qualifying interest / special conservation interests of the European sites identified. As such, likely effects on River Slaney Valley SAC and Wexford Harbour and Slobs SPA cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is required.

9.21. In relation to the remaining SAC areas considered, taking into consideration the distance between the proposed development site to these designated European sites, the lack of a direct hydrological pathway with the potential to facilitate significant effect, or any other pathway or link to these conservation sites, as well as the dilution and dispersal effects, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the construction and operation of the proposed development, would not be likely to have an adverse effect on the conservation objectives of

features of interest of Raven Point Nature Reserve SAC, Screen Hills SAC, The Raven SPA, Long Bank SAC, Blackwater Bank SAC, and Carnsore Point SAC.

9.22. Stage 2 – Appropriate Assessment

9.23. The submitted NIS identifies the potential for negative effects upon River Slaney Valley SAC and Wexford Harbour as a result of the proposed development during construction phase as a result of potential pollution and sediment effect as a result of discharges from the site.

9.24. The site-specific conservation objectives and qualifying interests / species of conservation interests of River Slaney Valley SAC and Wexford Harbour and Slobs SPA are summarised above in table 9.1. The NIS provides a description of River Slaney Valley SAC and Wexford Harbour and Slobs SPA, and the potential effects of the proposed development, alongside any required mitigation to avoid adverse effects. A conclusion on residual impact is then provided. A summary of this assessment is set out below.

9.25. Slaney River Valley SAC and Wexford Harbour Slobs SPA: These sites support several species listed on Annex II of the EU habitats Directive, and habitats listed on Annex I of this Directive, as well as important numbers of wintering wildfowl including some species listed on Annex I of the E.U. Birds Directive. Many mammal species, including species listed in the Irish Red Data Book. Internationally important populations of Mute Swan, Light-bellied Brent Goose, Bar-tailed Godwit and Black-tailed Godwit. Several species listed on Annex II, including Sea Lamprey and Brook Lamprey, Otter, Salmon, small numbers of Freshwater Pearl Mussel and Twaite Shad. An important river for salmon fishing and spawning and supports regionally significant numbers of Common Seal.

9.26. The NIS identifies potential indirect effects related to pollution and sedimentation during the construction phase, that could result from fuel spillage or leakages, and while there is no direct surface water linkage, given proximity to the Burgess River, these effects cannot be ruled out. Mitigation is described in section 5 of the submitted NIS and relates to implementation of measures through a construction environmental management plan. Measures for waste, silt, drainage, fuel/oil management is outlined. Indirect effect upon QI species as a result of the potential for such discharges is outlined, including with respect to Otter. Mitigation with

respect to spread of invasive species is also identified. I accept that the proposed mitigation would limit the identified potential impacts within the submitted NIS to within acceptable parameters.

9.27. In-combination Effects

9.28. There is a failure in the submitted AA Screening Report and NIS to recognise a nearby planning approval in the area namely, Reg. Ref. 20221603 at Tincone and Burgess Ardavan Co. Wexford. The NIS relies upon the County Development Plan as the overarching approach to planned development of the area. However as set out in section 8.2 above, lands at Wexford Town and surrounding areas are not currently zone under the County Development, and therefore such reliance is misplaced in my view, until such time as a statutory framework for the development of lands is adopted by the Council and subject to AA. The potential for in-combination effects resulting from the possible simultaneous construction upon these two sites, and others in the area, requires specific consideration in the NIS in my view, particularly in terms of construction related effects, including water quality impact and disturbance of QI bird species. This is linked to the consideration of effects upon ex-situ QI bird species resulting from the removal of suitable habitat for those species from the site, with reliance on the availability of similar habitats in the surrounding area to counter any effect. The failure to adequately consider in-combination effects means there is a lack of certainty regarding the conclusions reached in the submitted AA Screening and NIS, and the effectiveness of the proposed mitigation. As a result of the foregoing, I am unable to discount the potential for in-combination effects upon European sites.

9.29. AA determination – Conclusion

9.30. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

9.31. Having carried out a Stage 1 Appropriate Assessment Screening of the proposed development, it was concluded that adverse effects on the Slaney River Valley SAC and Wexford Harbour and Slobbs SPA, could not be ruled out, due to proximity to these European sites and potential indirect hydrological pathway links to the subject site. Consequently, an Appropriate Assessment was required of the implications of

the project on the qualifying features of those sites in light of their conservation objectives.

9.32. Following a Stage 2 Appropriate Assessment, it is accepted that the proposed mitigation with respect to potential surface water discharges during construction of the proposed development in isolation would be effective. However, deficiencies have been identified in the information provided within the submitted Natura Impact Statement as follows:

- The lack of consideration of potential in-combination effects resulting from simultaneous construction projects in the area.

9.33. In my view, the submitted NIS lacks comprehensive consideration of potential cumulative effects on European sites. As such, there is a lack of certainty that the proposed development, in-combination with other plans or projects, would not adversely affect the integrity of the Wexford Harbour and Slobbs SPA, in view of those sites' conservation objectives.

10.0 Environmental Impact Assessment (EIA) Screening

10.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIAR Screening Statement and Statement in accordance with Article 299B (1)(b)(ii)(II)(C) and I have had regard to the same. The report concludes that the proposed development is below the thresholds for mandatory EIA and that a sub threshold Environmental Impact Assessment Report (EIAR) is not required in this instance as the proposed development will not have significant impacts on the environment.

10.2. Section (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- (i) Construction of more than 500 dwelling units;
- (iv) Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other built-up area and 20ha 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.)

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

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

10.4. The proposed development is for 222 residential units. The overall site area is approximately 7.4ha and is formed of agricultural fields with treelines, hedges and scrub also present. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b)(i) and (iv) of the Planning and Development Regulations 2001 (as amended), in that it is less than 500 units and is below 10ha (that would be the applicable threshold for this site, being outside a business district but within an urban area). Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7. I would note that the uses proposed are in keeping with land uses in the area and that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents, in relation to screening for EIA. The site is not subject to a nature conservation designation. In relation to habitats or species of conservation significance, the AA set out above, concludes that adversely affect upon the integrity of the European sites cannot be ruled out, due to the lack of a comprehensive NIS for the scheme, however for the purposes of screening for EIA, I am satisfied that any potential for impact would not be so significant as to trigger in itself the need for EIA.

10.5. The criteria at Schedule 7 to the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of EIA. Section 299B(1)(b)(ii)(II)(A) of the regulations states that the Board shall satisfy itself that the applicant has provided the information specified in Schedule 7A. The submitted EIA Screening Report addresses the information under Schedule 7. It is my view that sufficient information has been provided within the documentation to determine whether the development would or would not be likely to have a significant effect on the environment. The various reports submitted with the application address a

variety of environmental issues and assess the impact of the proposed development, and demonstrates that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have outlined above with respect to AA and ecological impact, areas where I consider mitigation to be insufficient, however this would not be significant for the purposes of EIA, and I am satisfied that an EIA would not be triggered upon this basis alone. In relation to cumulative impacts, specific planning permission in the surrounding area are not identified, however I do not consider this so significant as to trigger the need for EIA in itself. This is however a flaw in the submitted screening that should be noted by the applicant, and I have recommended the same in my draft order below.

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

- Appropriate Assessment Screening Report;
- Bat Survey Report;
- Bird Survey Report;
- DMURS Statement of Compliance;
- Ecological Impact Assessment Report;
- Engineering Services Report;
- Natura Impact Statement;
- Outline Resource & Waste Management Plan;
- Traffic Impact Assessment;
- Arboricultural Report;
- Architectural Design Statement;
- Construction Management Plan;
- Planning Report & Statement of Consistency

10.7. In addition I have taken into account the SEA of the Development Plan. Noting the requirements of Article 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union Legislation other than the EIA Directive have been taken into account, I would note and have considered that the following assessments / reports have been submitted:

- A Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 as amended, and Appendix A: Statement in accordance with Article 299B(1)(b)(ii)(II)(C).
 - Directive 92/43/EEC, Habitats Directive, and Directive 2009/147/EC Bird Directive is considered in the AA Screening and Bird and Bat Surveys for the application. It is concluded that significant effects will not result to the overall local populations. Deficiencies are identified with respect to mitigation to limit effects concerning bird populations utilising the site, however this would not alter the significance of impact to such as a degree as to trigger the need for EIA in itself.
 - Directive 2007/60/EC on the assessment and management of flood risks, in the submitted Infrastructure Design Report;
 - Directive 2000/60/EU, EU Water Framework Directive, in the submitted AA Screening Report;
 - Directive 2001/42/EC on strategic environmental assessment, in the submitted statement of consistency;
 - Directive 2008/50/EC, Clean Air for Europe Directive, in the submitted Traffic Impact Assessment;
 - Directive 92/57/EEC on the minimum safety and health requirements at temporary or mobile construction sites in the Construction Management Plan.

10.8. The EIAR Screening Statement prepared by the applicant has under the relevant themed headings considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states

that the development would not be likely to have significant effects on the environment. I am satisfied that all relevant assessments have been identified for the purposes of EIA Screening.

10.9. I have completed a screening assessment as set out in Appendix A of this report and recommend to the Board that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report (EIAR) would not therefore be required. The conclusion of this assessment is as follows:

10.10. Having regard to:

(a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.

(b) the location of the site in an established residential area.

(c) The pattern of development and planning approvals in surrounding area.

(d) The availability of mains water and wastewater services to serve the proposed development.

(e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).

(f) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003).

(g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and

(h) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment and Construction and Environmental Management Plan.

10.11. It is considered that the proposed development would not be likely to have significant effects on the environment for the purposes of screening for EIA, and that the preparation and submission of an environmental impact assessment report would not therefore be required.

10.12. My EIA screening assessment is informed by the application documentation as a whole and does not solely rely upon the submitted EIA screening report.

11.0 Conclusion and Recommendation

- 11.1. As highlighted by third party appellants, the site is not currently zoned for residential use, and I have outlined in section 8.2 above why the appeal site cannot be assumed to represent a sustainable site for the sequential growth of the town. A case has not been presented by the Applicant or Planning Authority as to why the appeal site would reflect a spatially sequential growth approach in comparison to other sites available for residential development in the town. The proposed development is therefore contrary to National Strategic Outcome 1 'Compact Growth' under the NPF and Objective CS02 of the Wexford County Development Plan 2022-2028.
- 11.2. The proposed development design is also unacceptable, there is a lack of defined character areas, a poor layout, including unnecessary overbearing relationships upon adjacent existing gardens, a lack of street hierarchy, elements that are contrary to DMURS and an overprovision/poor arrangement of on-street parking. As such, the proposal is contrary to Objective TV52 (failing to incorporate criteria under Section 3.2 of the Building Height Guidelines for schemes that exceed the prevailing height in an area), as well as Objectives TS16, TS25, TV27 and table 6-7 of the Development Management Manual, in the Wexford County Development Plan 2022-2028.
- 11.3. The proposed development fails to incorporate 15% of the site area as public open space in accordance with Objectives ROS17 and ROS11, and the associated quantitative standards set out in Section 14.5.4 of the Wexford County Development Plan 2022-2028.
- 11.4. The proposal also failed to incorporate an assessment of existing schools in the area in accordance with Objectives SC22 and SC37 of the Wexford County Development Plan 2022-2028.
 - 11.4.1. The potential ecological impacts of the proposed development have not been comprehensively identified in the application documents and adequate mitigation is not described. The development proposal is therefore contrary to Objectives GI01, ROS19 and section 7.4 of the Development Management Manual.

11.4.2. The submitted AA Screening Report and NIS lacks comprehensive consideration of potential in-combination effect on European sites.

11.5. I therefore recommend that the Board allow the appeal and refuse permission for the proposed development.

12.0 Recommended Order

Planning and development Act 2000 as amended

Planning Authority: Wexford County Council

Planning Register Reference Number: 20221690

Appeal by Ann Donohue, Brendan and Annette Lowney, Brendan Lowney and Pilar Loring, Ciara and Paul MacCarthy, Ciaran Quirke and Sharon Kiely, Elizabeth McKiernan and Craig Becker, Martin McDonald and Others, and Michael Tierney and Others, against the decision made on 22nd February 2023 by Wexford County Council to grant permission to Dronoe Limited for the proposed Large Scale Residential Development application subject to conditions.

Location: Crosstown, Ardcavan, Co. Wexford.

Proposed Development

12.1. The proposed development is for the following:

- 222 no. new homes in the form of a mix of detached, semi-detached and terraced houses, duplexes and apartments, a 6-classroom creche and associated open space and 2 no. retail units;
- The residential units will consist of 62 no. apartments and 160 no. houses as follows:
 - 34 no. 4 bedroom houses;
 - 126 no. 3 bedroom houses;
 - 6 no. 3 bedroom duplex apartments;
 - 24 no. 2 bedroom duplex apartments;
 - 6 no. 2 bedroom apartments; and
 - 26 no. 1 bedroom apartments.

- Buildings range from one, two and three storeys high;
- A central public open space and a couple of pocket parts within the site;
- New pedestrian, cyclist and vehicular entrances from Regional Road R741 to the east of the site and Riverside Road to the north;
- The layout is served by a system of local roads and home zones which weave through the development, creating a residential network of paths and streets;
- Car parking for 436 no. cars and 158 no. bicycle spaces located throughout the site;
- Site servicing (including ESB substations), landscaping, hedgerow plans and SUDS measures are incorporated and integrated into the proposed development.

Decision

Refuse permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

1. The site is not currently zoned for residential use under the Wexford County Development Plan 2022-2028. A case has not been presented as to why the appeal site would reflect a sustainable approach to sequential development of the area, in preference to other sites available for residential development in the town. The proposed development is therefore contrary to National Strategic Outcome 1 'Compact Growth' under the NPF and Objective CS02 of the Wexford County Development Plan 2022-2028.
2. The proposed design strategy does not provide the optimal design solution for the site, particularly in relation to the layout approach and a lack of defined character areas through design. With specific reference to the proposed

layout of houses to the north west of the site (no.'s 12 and 129) and to the south (no.49), and in light of the established context, the proposed development results in an unnecessary overbearing relationship upon existing adjacent gardens. In addition, the proposed layout fails to follow the approach set out in the Design Manual for Urban Roads and Streets (DMURS), including lacking a hierarchical arrangement to proposed streets, unnecessary cul-de-sacs to the north west of the site and poorly laid out and excessive provision of car parking. As such, the proposal is contrary to Objective TV52, TS16, TS25, and TV27, as well as table 6-7 of the Development Management Manual, in the Wexford County Development Plan 2022-2028.

3. The proposed development fails to incorporate 15% of the site area as public open space in accordance with Objectives ROS17 and ROS11, and the associated quantitative standards set out in Section 14.5.4 of the Wexford County Development Plan 2022-2028.
4. The application fails to incorporate an assessment of existing schools in the area in accordance with Objectives SC22 and SC37 of the Wexford County Development Plan 2022-2028.
5. Having regard to the deficiencies in the submitted Ecological Impact Assessment (EclA), particularly in relation to:
 - Failure to identify habitats on the site as key ecological receptors (KERs) for the site and identify the potential consequences of removal of these habitats upon associated fauna, including protected species.
 - No mitigation is described to reduce potential impact upon birds.
 - With respect to cumulative impact, the EclA fails to identify nearby large scale residential development.

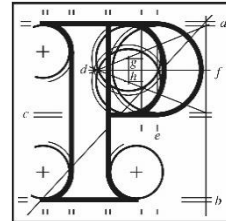
In the absence of adequate identification of KERs and potential impact upon species as a result of the proposed development, significant permanent adverse impact upon protected species and birds cannot be excluded. As a result, the proposed development is contrary to Objectives GI01, ROS19 and section 7.4 of the Development Management Manual.

6. Having regard to the deficiencies in the information provided in the submitted Natura Impact Statement (NIS), there is a lack of certainty that the proposed development, in-combination with other plans or projects, would not adversely affect the integrity of the Wexford Harbour and Slobbs SPA, in view of those sites' conservation objectives. In such circumstances, the Board is precluded from granting permission.

NOTES:

1. An Archaeology Assessment is required with reference to comments received from the Department of Housing, Local Government and Heritage on the application.
2. A Daylight and Sunlight Assessment is required with regard to Objective TV52 of the Wexford County Development Plan 2022-2028 and the need to incorporate criteria under Section 3.2 of the Building Height Guidelines for schemes that exceed the prevailing height in an area.
3. The submitted Environmental Impact Assessment Screening Report fails to identify a nearby planning approval for large scale residential development with respect to potential cumulative impact.
4. In accordance with article 23(1)(a) of the Planning and Development Regulations 2001 (as amended) there is a requirement to detail the location of septic tanks on site or layout plans.
5. Objective TS82 of the Wexford County Development Plan 2022-2028 requires Road Safety Audits (RSAs) in accordance with the Development Manual of the County Development Plan, and specifically developments which exceed 200 dwellings.

13.0 Appendix A: EIA Screening



An
Bord
Pleanála

EIA - Screening Determination for Large Scale Residential Development Appeals

A. CASE DETAILS

An Bord Pleanála Case Reference

ABP-316019-23

Development Summary

222 no. dwellings (160 no. houses, 62 no. apartments) and associated site works.

| | Yes / No / N/A | |
|--|----------------|---|
| 1. Has an AA screening report or NIS been submitted? | Yes | An AA Screening Report and NIS was submitted with the application |

2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR? No

3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA Yes

SEA undertaken in respect of the Wexford County Development Plan 2022-2028. An AA Screening Report, NIS and Ecological Impact Assessment (EclA) under the Habitats Directive and with reference to the Water Framework Directive. The submitted EIA Screening Statement also refers to the Habitats Directive. A Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 as amended was also submitted, providing an assessment of relevant EU legislation in relation to the proposed development and identifying the consideration of relevant EU legislation in the preparation of plans / reports.

| B. EXAMINATION | Yes/ No/ Uncertain | Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, | Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain |
|----------------|--------------------|---|---|
|----------------|--------------------|---|---|

| | | duration, frequency, intensity, and reversibility of impact) | |
|---|-----|---|----|
| Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect. | | | |
| 1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning) | | | |
| 1.1 Is the project significantly different in character or scale to the existing surrounding or environment? | No | Notwithstanding matters relating to zoning and sequential development of the town, the residential use proposed and the size and design of the proposed development would not be unusual for this part of Wexford. While the height is a maximum 3 storeys, and the height of adjacent buildings is 1 and 2 storey, the proposed scale is not exceptional, relative to the established urban in the wider area. | No |
| 1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)? | Yes | The works will involve levelling out in some areas, but with no significant change to topography. Changes in land use and form are not considered to be out of character with the pattern of development in the surrounding area, and the site is situated in an existing urban area. | No |
| 1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply? | Yes | Construction materials will be typical of such development. While the development will result in the intensity of land coverage by buildings, this is not on a significant scale at either national or county level. | No |

| | | | |
|--|-------------------|---|-----------|
| <p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p> | <p>Yes</p> | <p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p> | <p>No</p> |
| <p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p> | <p>Yes</p> | <p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts.</p> | <p>No</p> |

| | | | |
|--|-------------------|--|------------------|
| <p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p> | <p>Yes</p> | <p>Surface water management systems as required of a project of this scale will prevent the escape of potential pollutants from the site. However, the potential for discharge of pollutants during the construction phase into surrounding area cannot be ruled out. Appropriate mitigation is set out in the submitted NIS to manage this risk and prevent adverse effects.</p> | <p>No</p> |
| <p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p> | <p>Yes</p> | <p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction and Environmental Management Plan. Permanent operation of new lighting and use of energy throughout the development will also result, but would not be to a significant level and would reflect established residential use in the area.</p> | <p>No</p> |
| <p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p> | <p>No</p> | <p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction and Environmental Management Plan to include traffic movements, would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p> | <p>No</p> |

| | | | |
|--|-------------------|--|------------------|
| <p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p> | <p>No</p> | <p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature.</p> | <p>No</p> |
| <p>1.10 Will the project affect the social environment (population, employment)</p> | <p>Yes</p> | <p>Redevelopment of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the scale of the development, its situation in an existing urban area and the surrounding pattern of land uses.</p> | <p>No</p> |
| <p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p> | <p>No</p> | <p>This is a stand-alone development, comprising renewal of a site. While cumulative impact has not been comprehensively addressed in the submitted EIA Screening Report, it is not anticipated that impact would be so significant as to trigger the need for EIA in itself.</p> | <p>No</p> |
| | | | |
| <p>2. Location of proposed development</p> | | | |

| | | | |
|--|-------------------|---|------------------|
| <p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ol style="list-style-type: none"> 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan | <p>Yes</p> | <p>An AA Screening Assessment Report and Ecological Impact Assessment are submitted with the application. Deficiencies are identified in these reports, however given the scale of the proposed development and context of the site, it is not anticipated that potential impact would be so significant as to trigger the need for EIA in itself.</p> | <p>No</p> |
| <p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p> | <p>Yes</p> | <p>Existing habitats have been surveyed in the submitted Ecological Impact Assessment and AA Screening Assessment Report. The site is a wintering bird location. Red Data species are also supported on the site. Mitigation is not specifically set out with respect of birds, but this issue is not anticipated to be so significant in terms of impact as to trigger the need for EIA in itself. Surveys demonstrate that while bats utilise the site, mitigation is necessary to reduce impact on bats. Mitigation is also outlined in the submitted EclA with respect to bats.</p> | <p>No</p> |

| | | | |
|--|-------------------|---|------------------|
| <p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p> | <p>Yes</p> | <p>The appeal site is not identified as being within an archaeological heritage area, however the site is undeveloped, and therefore potential exists for currently unknown undisturbed archaeological features. The Department of Housing, Local Government and Heritage have identified that the location of the site gives it potential for such features. Objectives under the Development Plan asks the Planning Authority to take into account views of the National Monuments Service which forms part of the Department and requires archaeological assessments for applications that may affect archaeology due to their location or size. However, it is not anticipated that this matter would give rise to impacts so significant as to warrant the need for EIA in itself.</p> | <p>No</p> |
| <p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p> | <p>No</p> | <p>While the subject site is formed of agricultural lands, these are not scarce in the area and the site is surrounded by housing.</p> | <p>No</p> |

| | | | |
|---|--------------------|---|-----------|
| <p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p> | <p>No</p> | <p>The site is separated to watercourses.</p> | <p>No</p> |
| <p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p> | <p>No</p> | <p>There is no evidence in the submitted documentation that the lands proposed for development are susceptible to lands slides or erosion and the topography of the area is generally flat.</p> | <p>No</p> |
| <p>2.7 Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p> | <p>Yes.</p> | <p>The site is adjacent and accessed from the R741, however no significant impact is identified.</p> | <p>No</p> |
| <p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</p> | <p>No</p> | <p>The subject site is not immediately adjacent to any sensitive land uses, with existing residential to the south, north, west, part east and commercial to the south, and east.</p> | <p>No</p> |

| 3. Any other factors that should be considered which could lead to environmental impacts | | | |
|--|---------|--|----|
| 3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase? | Unknown | Insufficient consideration given to cumulative impact in the submitted EIA Screening Report, however given the relatively low level of activity in the area and the scale of developments proposed, it is unlikely that potential impact would be so significant as to warrant the need for EIA in itself. | No |
| 3.2 Transboundary Effects: Is the project likely to lead to transboundary effects? | No | No trans boundary considerations arise | No |
| 3.3 Are there any other relevant considerations? | No | | No |

| C. CONCLUSION | | | |
|---|-----|-------------------|--|
| No real likelihood of significant effects on the environment. | Yes | EIAR Not Required | |
| Real likelihood of significant effects on the environment. | No | | |
| | | | |
| D. MAIN REASONS AND CONSIDERATIONS | | | |
| Having regard to: - | | | |

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.
- (b) the location of the site in an established residential area.
- (c) The pattern of development and planning approvals in surrounding area.
- (d) The availability of mains water and wastewater services to serve the proposed development.
- (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).
- (f) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003).
- (g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and
- (h) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment and Construction and Environmental Management Plan.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

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.

Rachel Gleave O'Connor
Senior Planning Inspector

31st May 2023