



An
Bord
Pleanála

Inspector's Report

ABP-316261-23

Development	Construction of 27 houses
Location	c2.05ha lands located south of Leamore Lane, Newcastle, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	22/342
Applicant(s)	Touncaragh Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Touncaragh Limited
Observer(s)	None
Date of Site Inspection	29 th January 2024
Inspector	Elaine Power

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	6
3.4. Third Party Observations	7
4.0 Relevant Planning History	7
5.0 Policy Context.....	7
5.1. Wicklow County Development Plan 2022 – 2028.....	7
5.4. Natural Heritage Designations	11
5.5. EIA Screening	11
6.0 The Appeal	13
6.1. Grounds of Appeal	13
6.2. Planning Authority Response	14
6.3. Observations	14
6.4. Further Responses.....	15
7.0 Assessment.....	15
8.0 Appropriate Assessment.....	25
9.0 Recommendation.....	43
10.0 Reasons and Considerations	43
Appendix 1: Form 1: EIA Pre-Screening	
Appendix 2: EIA Preliminary Examination	

1.0 Site Location and Description

- 1.1. The appeal site is located in Newcastle, Co. Wicklow c. 400m east of the village centre and is referred to as Site B by the applicant. The site is bound to the north by Leamore Lane, which is a rural road with no footpath. On the opposite side of the road there are a number of detached dwellings. To the south the site is bound by agricultural land and the rear gardens of 2 no. detached dwellings. The site is bound to the east and west by agricultural lands. The appeal site forms part of a larger landholding within the applicants ownership and the land to the east is currently subject to a separated appeal (ABP.316260-23) for 5 no. houses. This adjacent appeal site is referred to as Site A by the applicant.
- 1.2. The site (Site B) is irregular in shape and has a stated area of 1.72ha. The majority of the site currently forms agricultural land. The red line boundary incorporates a section of Leamore Lane and the internal estate road within Hunters Leap, which connects to Sea Road. The site boundaries generally comprise mature trees and hedgerows. There is a c. 2m level difference within the site. The highest part of the site is the north and the lowest section is the south east.
- 1.3. The Newcastle Stream runs parallel to Sea Road and provides connectivity between the site and The Murrough Wetlands SAC and The Murrough SPA.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 27 no. houses with a new vehicular access Leamore Lane. The works include the provision of a 2m wide footpath along Leamore Lane, between the appeal site and Newcastle Road, and all associated site works to facilitate the proposed scheme.
- 2.2. An NIS was submitted with the application.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reasons:

1. Having regard to :
 - a. The location of part of the development on the eastern side of the site, which relates to 5 units no.'s 23-27 and the access road for 4 houses no's 19-22 including services and public open space, which is within the rural area and outside of the settlement of Newcastle, as defined in the County Development plan 2022.
 - b. Objective CPO6.1 which states new housing development shall be required to location on suitably zoned or designated land in settlement and will only be considered in the open countryside when it is for the provision of a rural dwelling for those with a demonstrable housing social or economic need to live in the open countryside.

It is considered that the proposal for the construction of the development on this site would result in urban generated housing within the rural area, which would materially contravene the settlement strategy and objectives for the rural areas of County Wicklow as set out in the County Development Plan 2022-2028 which aims to direct such development into settlements. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

2. The proposed development would be premature having regard to the existing deficiency in the provision of sewerage facilities serving Newcastle and the period within which wastewater treatment facilities, adequate to serve the development, may be provided. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
3. Having regard to deficiencies in the existing municipal sewer network and treatment system, the Planning Authority cannot be satisfied, beyond a reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of the Murrough Special Protection Area and The Murrough Wetlands Special Area of Conservation in view of the sites Conservation Objectives.
4. The development is reliant on improvement works to Leamore Lane on lands that are outside of the control of the applicant. It is considered that the proposed development, in the absence of the required works, would endanger public

safety by reason of traffic hazard. The proposed development would therefore be contrary to proper planning and sustainable development.

5. The proposed development contravenes the following objectives for the Secondary Zone of the Newcastle Town Plan as set out in the Wicklow County Development Plan 2022-2028: a full range of unit sizes, including smaller 2 and 3 bedroomed units shall be provided in all new housing developments (i.e. developments exceeding 4 units). The development would therefore be contrary to proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planners report dated 24th May 2022 raised some concerns regarding the proposed scheme and requested that 8 no. items of further information be sought from the applicant. These are summarised below:

1. Further information regarding the capacity of the Newcastle Waste Water Treatment Plant to accommodate the proposed scheme.
2. Clarify works along Leamore Lane that are reliant on third party lands or previous grants of permission.
3. Further information regarding the capacity of the existing surface water network to accommodate the proposed scheme.
4. Address concerns that the proposed density and that the unit mix is not in accordance with the provisions of the development plan.
5. Submit an Archaeological Impact Assessment
6. Revised proposals for Part V units.
7. Address concerns regarding the proposed boundary treatments
8. Clarify if Leamore Lane is a private lane.

The response to the request for further information was received on the 13th February 2023. The planning authority considered the further information to be significant and revised notices were submitted on the 21st February 2023.

The planners report dated 9th March 2023 considered that all items of further information had not been adequately addressed and recommended that permission be refused for the 5 no. reasons outlined above.

3.2.2. **Other Technical Reports**

Housing: Report dated 11th May 2022 raised concerns regarding the size of the proposed Part units, which exceed the standards set out in the Quality Housing Guidelines. Report dated 5th February 2023 raised no objection in principle.

Water and Environmental Services: Report dated 10th May 2022 raised no objection subject to conditions.

Transport, Water and Emergency Services: Report dated 11th May 2022 raised no objection subject to conditions.

District Engineer: Email dated 20th May 2022 raised no objection subject to conditions. Email dated 7th March 2023 notes that Leamore Land is a private road and there are no plans to make this a public road. It is also recommended that upgrades to the road network prior to occupation of the scheme and that mature trees to be retained should be assessed by an arborist and that landscaping should be signed off by an arborist or horticulturist.

3.3. **Prescribed Bodies**

Irish Water: Reports dated 10th May 2022 and March 2023 raise no objection subject to conditions.

Development Applications Unit (DAU), Department of Housing, Local Government and Heritage: Report dated 9th May 2022 recommended that an Archaeological Impact Assessment be submitted by way of further information. Report dated 2nd March 2023 notes the applicants Archaeological Impact Assessment and raised no objection subject to conditions.

3.4. Third Party Observations

A submission was received from Hunters Leap Residents Association. There was no objection in principle to the development of the appeal site and the adjoining site, also within the ownership of the applicant and subject to appeal (ABP. 316260-23) for residential use. However, concerns were raised regarding the proposed vehicular access to the site from Hunters Leap. Hunters Leap is accessed from Sea Road, which has substandard footpaths and cannot take increased vehicular movements.

4.0 Relevant Planning History

Subject Site

None

Surrounding Sites

Reg. Reg. 22/341: Permission was refused in March 2023 for the construction of 5 no. houses on the site immediately east of the appeal site. This decision is currently on appeal (ABP. 316260-23).

ABP 310294-21, Reg. Ref. 20/764: Permission was granted in 2022 for 9 no. residential units and a commercial unit on Main Street, to the north of the appeal site.

ABP.309388-21, Reg. Ref. 20/298: Permission was granted in 2021 for the construction of 22 no. houses, 13 no. apartments and 3 no. commercial units, the provision of new landscaped Town Park and Linear Park with new civic spaces on the opposite side of Main Street to the appeal site.

5.0 Policy Context

5.1. Wicklow County Development Plan 2022 – 2028

Newcastle is identified as a small town (level 6), with moderate local services and employment functions. It had a population of 3,835 persons and 1,534 residential units in 2016. Table 3.4 sets a target population of 4,230 persons by Q2 of 2028. Table 3.5

notes that 46 no. units were completed by 2020 with an additional 30 no, estimated completions by Q2 2022. There is a target of an additional 114 no. units by Q2 2028.

The following policies and objectives are considered relevant: -

Strategic County Outcome: SCO1: Sustainable Settlement Patterns and Compact Growth: The delivery of compact growth in all towns and villages by capitalising on the potential for infill and brownfield development, moving away from a reliance on greenfield development and creating places that encourage active lifestyles is essential for the successful delivery of the development plan strategy.

CPO 4.13 To require that the design, scale and layout of all new residential development is proportionate to the existing settlement, respects the character, strengthens identity and creates a strong sense of place.

- For Level 6 towns no one development should increase the existing housing stock by more than 10%.

CPO 4.6: To require new housing development to locate on designated housing land within the boundaries of settlements, in accordance with the development policies for the settlement.

CPO 6.1 New housing development shall be required to locate on suitably zoned or designated land in settlements and will only be considered in the open countryside when it is for the provision of a rural dwelling for those with a demonstrable housing social or economic need to live in the open countryside.

CPO 6.19 The development of zoned land should generally be phased in accordance with the sequential approach as set out in this chapter. The Council reserves the right to refuse permission for any development that is not consistent with these principles.

CPO 6.31 To support the development of a programme for 'new homes in small towns and villages' to provide serviced sites with appropriate infrastructure to attract people to build their own homes and live in small towns and villages. The development of 'serviced sites', where site purchasers have the option of designing their own home, shall be particularly encouraged on zoned / designated housing land.

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

Chapter 2: Overall Strategy, Chapter 3: Core Strategy, Chapter 4: Settlement Strategy, Chapter 6: Housing and Chapter 14: Flood Management are also considered relevant.

Volume 2 – Town Plans - Level 6 sets out the Newcastle Town Plan 2022-2028. It notes that Newcastle is currently supplied by the Vartry Scheme which has adequate capacity for the targeted level of growth. Newcastle is currently served by a Waste Water Treatment Plant located on Sea Road. The capacity of the treatment plant is 1,000 population equivalent (pe) with a 2022 loading of c. 900 pe; therefore capacity for new development is limited.

Sea Road is very narrow in places, especially at its junction with the R761, and requires footpaths for most of the distance to the GAA club. There is no public lighting along Sea Road to the R761 and the introduction of public lighting along this section of the road is required to enhance safety for pedestrians and motorists. Further development along this section of Sea Road will not be permitted until these shortcomings have been addressed.

The following objectives are considered relevant.

1. *Improve and provide roads, footpaths and cycleways where required and at the following locations:*

- *the realignment of the junction of Sea Road/R761;*
- *at the junction of the L5050 and the R761 and along the L5050 between the town centre and St. Francis School ;*
- *along the R761 from the L5050 to the north of the town;*
- *along the L5550 (Sea Road) from Hunters Leap/the boat repair yard to the R761;*
- *along Leamore Lane from the town centre to the plan boundary.*

3. *To facilitate the provision of pedestrian and cycling linkages within and between existing and new housing/mixed use development throughout the settlement.*

4. Existing mature trees and boundaries throughout the settlement shall be retained where considered appropriate by the Planning Authority and integrated appropriately into any new development proposal.

7. Development proposals on secondary and tertiary lands that front onto a public road shall provide a green buffer area between the road edge and any boundary / planting of at least 6m deep along the public road.

5.2. National Planning Framework

The National Planning Framework addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.3. **Section 28 Ministerial Guidelines**

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024
- Quality Housing for Sustainable Communities: Design Guidelines, 2007
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013

5.4. **Natural Heritage Designations**

The following designated sites are within 15m of the appeal site.

- The Murrough SPA (004186) is located c. 600m east of the appeal site.
- The Murrough SAC (002249) is located c. 1km east of the appeal site.
- The Glen of the Downs (000719) is located c. 7km north of the appeal site.
- Carrigower Bod SAC (000716) is located c. 7.3km north west of the appeal site.
- Bray Head SAC (0007141) is located c. 9.6km north of the appeal site.
- Wicklow Reef SAC (002274) 10.3km south east
- Wicklow Head SPA (004127) is located c. 11km south of the appeal site.
- Wicklow Mountains SAC (002122) is located c. 13km west of the appeal site.
- Wicklow Mountains SPA (004040) is located c. 13km west of the appeal site.
- Deputy's Pass Nature Reserve SAC (000717) 14.5km south west of the appeal site.

5.5. **EIA Screening**

5.5.1. Section 9.12 of the applicants Planning Application Report provides and EIA Screening Assessment, and I have had regard to same in this screening assessment.

5.5.2. Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and Section 172(1)(a) of the Planning and Development Act 2000, as amended

provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

- Construction of more than 500 dwelling units
- Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- Item 15: 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.

5.5.3. The proposed development comprises the construction of 27 no. residential units and all associated infrastructure to accommodate the development, on a site with a stated area of 2.05 ha. The site is located on a greenfield site within the urban settlement of Newcastle (other parts of a built-up area) and is, therefore, below the applicable thresholds. There are no excavation works proposed. Having regard to the relatively limited size and the location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required. I would note that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. The proposed development would use the public water and drainage services of Uisce Eireann and Wicklow County Council.

5.5.4. Given the information submitted by the applicant, having carried out a site visit on the 30th January 2024 and to the nature and limited scale of the proposed development, I am satisfied that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal against the planning authority's decision to refuse permission. The main grounds of the appeal are summarised below:

Zoning / Principle of Development

- The proposed scheme is in accordance with the sites zoning objective and has been designed within the context of the previous grant of permission ABP. 310294 on the adjoining site.
- The subject site is predominantly zoned secondary development. The eastern portion of the site was previously zoned for tertiary development in the Wicklow County Development Plan 2016 - 2022. Permission could be granted for the 22 houses on lands zoned for secondary development.
- It is in compliance with the provisions of the NPF, the development plan and the Newcastle Town Plan.
- Residential development is wholly appropriate having regard to the previous zoning objective. The proposed scheme is not urban generated housing.
- The site is well served by a range of services and employment facilities.

Design Approach

- The scheme is in keeping with the character and built form of the area.
- The housing mix and size varies and is appropriate for the location. The current development plan does not set out limits in this regard.
- There is a demand for housing in the area. The scale of the development would successfully integrate into its surrounding context without any negative impact on existing residential amenities.
- The site has been vacant for some time and is a suitable location for development, particularly due to its proximity to Hunters Leap.
- This is a quality scheme that would make a positive contribution to the viability and vitality of Newcastle.

Infrastructure – Wastewater

- The proposed development would be served by the existing water and wastewater networks. Details of estimated hydraulic capacity in the WWTP indicate that Newcastle Waste Water Treatment Plant has the capacity to accommodate the proposed scheme. This is accepted by the Wicklow County Council Engineer.
- The applicant is engaging with Usice Eireann in relation to the concept design report for upgrades to the wastewater treatment plant. A project works service agreement has been issued and discussions are on-going. This information is attached as Appendix B of the appeal.

Transportation

- It is understood that Hunters Leap is taken in charge by Wicklow County Council.
- It is envisioned that Leamore Lane will be taken in charge by Wicklow County Council in the future.
- The proposed access and road upgrade works to Leamore Lane would allow for safe vehicular and pedestrian movements to the subject site from the junction with the R761.
- The permitted works under Reg. Ref. 20/764 will upgrade and extend the existing footpath and road on Main Street and Leamore Lane.

Appropriate Assessment

- The proposed scheme would have no impact on The Murrough SAC or The Murrough SPA

6.2. Planning Authority Response

No response received.

6.3. Observations

None

6.4. Further Responses

None

7.0 Assessment

7.1. Having examined the appeal details and all other documentation on file, and inspected the site, and having regard to relevant policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Design Approach
- Access
- Water Services

7.2. *Principle of Development*

7.2.1. The planning authority's first reason for refusal considered that the proposed scheme would materially contravene the settlement strategy and objectives for the rural areas of County Wicklow as 5 no. houses and an access road on the eastern portion of the site are located on unzoned lands, outside of the settlement of Newcastle.

7.2.2. The applicant notes that when the application was lodged the eastern part of the site was zoned for tertiary development in the Wicklow County Development Plan 2016 - 2022. The appeal further notes that the majority of the site is zoned for secondary development and that permission could be granted for the 22 no. houses on zoned lands.

7.2.3. The Wicklow County Development Plan 2022-20228 came into effect on the 12th September 2022 and my assessment is based on the policies and objectives of the current statutory plan, which is the Wicklow County Development Plan 2022-2028. It is noted that the planning authority's decision was also made when the new plan was in effect.

7.2.4. The appeal site generally comprises 2 no. fields, which are divided in a north south direction by mature trees and a hedgerow. The western field, which comprise the

majority of the site is zoned Secondary Development Area in the Newcastle Town Plan 2022-2028 (Volume 2 of the Development Plan). The eastern field, which is located to the north of Hunters Leap, is unzoned.

- 7.2.5. The Small Town Plans of Volume 2 of the Development Plan states that the vision for Secondary Development Area is to provide for the sustainable development of a mix of uses including residential, employment, community and recreational uses that provide for the needs of the existing settlement and that allows for the future growth of the settlement. Residential uses are permissible on these lands.
- 7.2.6. The eastern section of the site is unzoned and located within an area designated as Level 10 (The Rural Area) in the settlement hierarchy outlined in the development plan. The Rural Area is identified as all areas outside of designated settlements. The development plan further states that development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area. Protection of the environmental and ecological quality of the rural area is of paramount important and as such particular attention should be focused on ensuring that the scenic value, heritage value and / or environmental / ecological / conservation quality of the area is protected. It is my view that the provision of 5 no. houses on unzoned lands in the open countryside would contravene Objective CPO 4.6 which requires that all new housing development are located on designated housing land within the boundaries of settlements. The provisions of Objective CPO 6.41 are also noted, which related to criteria for assessing applications for housing in the open countryside. However, I am satisfied that the proposed scheme does not fall into the category of rural housing need.
- 7.2.7. Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that: -
- (i) the proposed development is of strategic or national importance,
 - (ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or

- (iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under *section 28*, policy directives under *section 29*, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.2.8. Taking each of these in turn I conclude:

- (i) While I note the development of the site would support compact growth, the proposed development of 5 no. houses would not in my view be considered of national or strategic importance.
- (ii) There are no conflicting objectives and all objectives are quite clear in the development plan relating to residential development on unzoned lands.
- (iii) Appendix 10 of the development plan provides a statement of compliance with Section 28 guidelines. In my view there are no specific requirements set out in policy directives, relevant policies of the government nor regional planning guidelines which would support such a proposal.
- (iv) The pattern of development and permissions granted in Newcastle since the making of the development plan in September 2022 do not suggest a predisposition to materially contravening the land use zoning objective.

7.2.9. Having regard to the provisions of Section 37 (2) (b) of the Planning and Development Act, 2000 (as amended), I consider that the Board are not open to a grant of permission for residential uses on unzoned lands as it may be considered to materially contravene the zoning objective of the Wicklow County Development Plan 2022-2028.

7.2.10. It is acknowledged that 22 no. houses are located on lands zoned a Secondary Development Area and I agree with the applicant that the provision of these dwellings would not materially contravene the development plan and should be assessed on their merits. It is noted that the front garden of house no. 19 marginally encroaches on unzoned lands. I have no objection to this and consider it to be minor and not a material

contravention of the sites zoning objective. However, having regard to the precautionary approach if permission is being contemplated a condition could be attached that the house type be re-designed to ensure that the front garden it did not encroach on unzoned lands. It is also my view that the proposed access road would not be a material contravention of the sites zoning objective and should be considered on its merits.

- 7.2.11. Having regard to the above, it is my recommendation that if permission is being granted that a condition be attached to omit the proposed 5 no. houses on unzoned lands on the eastern portion of the site, outside of the settlement boundary.

7.3. ***Design Approach***

- 7.3.1. The appeal site generally comprises 2 no. fields, which are currently divided in a north south direction by mature trees and hedgerow. It is proposed to construct 27 no. houses. As noted above, 5 no. houses are located on unzoned lands. It is my opinion that the provision of these 5 no. dwellings would contravene Objective CPO 4.6 which requires that all new housing developments are located on designated housing land within the boundaries of settlements. Therefore, if permission is being contemplated it is recommended that these dwellings be omitted by way of condition. Notwithstanding this, as the Board may be minded to grant permission for the overall scheme, this section of my report assesses the design approach of the scheme as submitted.
- 7.3.2. The unit mix comprises 21 no. 4-bed houses and 6 no. 3-bed houses. There are 4no. different unit types ranging in size from 100sqm to 209sqm. The planning authority's fifth reason for refusing permission considered that the proposed development contravenes an objective for the Secondary Zone to provide a full range of unit sizes, including smaller 2 and 3 bed roomed units in all new housing developments (i.e. developments exceeding 4 units), as set out in Volume 2 (Small Town Plans) of the Development Plan
- 7.3.3. The applicant considers that the proposed scheme is in keeping with the character and built form of the area and that the housing mix and unit size are appropriate for the location.

- 7.3.4. I agree with the concerns of the planning authority that the proposed unit mix is not in accordance with the provisions of the Newcastle Town Plan. In addition, Objective HS12 of the Housing Strategy (Appendix 3) of the development plan also requires new multi-unit residential development to provide an appropriate mix of unit types and sizes to ensure that there is a range unit types available to suit the needs of the various households in the county. It is noted that the development plan does not set out a breakdown of unit sizes to be provided within a scheme and the wording of the objectives is flexible. Therefore, while it is acknowledged that the proposed unit mix is not in accordance with the provisions of the development plan I agree with the applicant that it is not a material contravention of the development plan.
- 7.3.5. The proposed unit mix may not be a material contravention of the development plan, however, in my view it directly impacts on the density of the scheme. It is noted that the density of the scheme, while related to the unit mix, may be considered a new issue by the Board.
- 7.3.6. The proposed scheme has a density of c. 15 units per ha (excluding the area of public open space). Table 3.1 of Appendix 1 of the development plan sets out a density standard of 20-35 units per ha for edge of centre sites. It also sets a standard of 15-20 units per ha for edge of a small town / village as an alternative to one-off housing with a caveat that the development does not represent more than 20% of the total new planned housing stock of the small town or village. Table 3.5 of the development sets a target of an additional 114 no. units by Q2 2028. Therefore, the proposed scheme would represent c. 24% of the total new planned housing in the town. In my opinion the density target of 20-35 units per ha is the applicable standard in this instance.
- 7.3.7. Table 3.6 of the Sustainable Residential Development and Compact Settlements Guidelines sets out density ranges of 25 – 40 units per ha for greenfield lands at the edge of small to medium sized towns, on lands that are zoned for residential or mixed uses development.
- 7.3.8. It is my opinion that the proposed density, which is a result of the proposed unit mix , would be contrary to the provisions of the Sustainable Residential Development and Compact Settlements Guidelines to provide a density of 25-40 units per ha and to the provisions of Table 3.1 of Appendix 1 (development standards) of the development plan to provide a density of 20-35 units per ha on edge of centre

sites. The site of the proposed development is on serviceable lands, within the development boundary of Newcastle, which is designated as a Small Town. The core strategy sets out a target of 114 no. additional units and a population increase of 395 persons for Newcastle in the lifetime of the plan (up to 2028). It is my opinion that the proposed development would not be of a sufficiently high density to provide for an acceptable efficiency in serviceable land usage, and that the low density proposed would be contrary to the Ministerial Guidelines, which indicate that net densities less than 25 dwellings per hectare should generally be discouraged in the interest of land efficiency. Furthermore, it is considered that the proposed development would be contrary to the National Planning Framework which aims to achieve compact growth through effective density and consolidation rather than more sprawl of urban development. It is my opinion that this concern could be addressed through a greater mix of unit sizes, to include smaller 2 and 3-bedroom residential units. However, the proposed unit mix requires a fundamental re-design and in my view it is not appropriate to address this concern by way of condition.

- 7.3.9. As outlined above, it is my opinion that the proposed scheme should be refused as the density is unacceptably low having regard to the sites location, however, if the Board are minded to grant permission it is considered appropriate to assess the design and layout of the scheme.
- 7.3.10. The proposed site layout indicates that the scheme comprises 13 no. detached dormer bungalows and 14 no. semi-detached, 2-storey houses. All typologies are contemporary in design with similar elevational treatments. The external material is a mix of render and brick on the front elevation. I have no objection to the proposed external finishes. The houses are laid out in a grid pattern with public open space along the sites southern boundary. It is noted that house no. 15, 16, 17 and 18 front onto the area of public open space and that house no. 9 (house type B1) is designed as a dual aspect corner unit, which allows for passive surveillance of the public open space. This design feature is welcomed. If permission is being contemplated it is recommended that a condition be attached that House no. 19 and 27 also be redesigned as dual aspect corner units to allow for passive surveillance of the area of public open space and that House no. 10, 22 and 23 be redesigned as dual aspect corner units to provide passive surveillance of Leamore Lane.

- 7.3.11. The proposed scheme also incorporates c. 3,032sqm of public open space, which equates to 17.5% of the total site area. This is in excess of the recommended target of 15% of the total site area, as set out in Appendix 1 of the development plan. The landscape masterplan indicates that a play area and walking route would be provided within the area of public open space. I have no objection to the quantity or quality of proposed public open space.
- 7.3.12. The Arboricultural Report submitted with the application notes the majority of the hedgerow comprises bramble. It is proposed to remove the hedgerow within the site and a portion along the sites northern boundary to accommodate the proposed access. It is also proposed to remove 7 no. trees to facilitate the proposed development. These include 3 no. category C (poor quality) trees and 4 no. Category B (good to fair quality) trees. Section 12.4 of the Arboricultural Assessment noted that 49 no. trees and 10 no. hedgerows / groups would be retained within the site. The landscaping masterplan indicates that the area of public open spaces along the sites southern boundary would include new trees and planting. I am satisfied that, in the long term, the loss of trees and hedgerow within the site would be adequately compensated for within the proposed scheme.

7.4. **Access**

- 7.4.1. The planning authority's fourth reason for refusal noted that the development is reliant on improvement works to Leamore Lane on lands that are outside of the control of the applicant and that the absence of the required works, would endanger public safety by reason of traffic hazard.
- 7.4.2. The applicants red line boundary, as submitted on the application drawing, extended along Leamore Lane to the junction with Newcastle Road. However, the red line boundary on the site layout plan submitted with the appeal does not include Leamore Lane. As noted in the applicants Traffic and Transportation Assessment Leamore Lane is a private lane, bound by residential dwellings and agricultural lands. It is 4.5m in width with no road markings, footpath or lighting. It has a 50km/hr speed limit. There is an existing agricultural access to the site from Leamore Lane. Vehicular access to the site is proposed from Leamore Lane with 3 no. additional driveways directly fronting onto the road.

- 7.4.3. The sites northern boundary has been set back c. 4m, to allow for road widening and the provision of a 2m footpath for c. 80m along the southern side of Leamore Lane. There is c. 150m between lands within the ownership of the applicant and Newcastle Road, in the town centre. The proposed site layout plan drawing submitted with the application indicates that c. 70m of the existing carriageway (shaded orange) would be upgraded in accordance with the requirements of the area engineer. It is noted that this section of the carriageway varies from c. 4m – 11m in width. The increased width is due to the setting back of 2 no. existing houses on the northern side of the carriageway to allow for a pull in area. It is noted that a c. 20m long footpath is provided outside one of the existing dwellings. The applicants documentation and the planning authority confirm that this is a private laneway. Therefore, any upgrade works would require third party agreement.
- 7.4.4. The proposed site layout plan drawing submitted with the application and the appeal indicates that the remaining c. 80m of the existing carriageway (shaded grey) would be upgraded in accordance with the works granted permission under ABP. 310294-21. During my site visit on the 29th January 2024 there was no on-going construction works on this site. However, it appeared that work had begun on Leamore Road to provide access to this site and access to an existing dwelling at the junction of Newcastle Road and Leamore Lane. While it is noted that permission has been granted to provide a footpath along this section of Leamore Lane, as this is a private laneway the completion of these works is outside of the control of the applicant.
- 7.4.5. The report of the planning authority's District Engineer notes that Leamore Lane is a private road with no proposals to take it in charge and recommended that upgrades to the road network prior to occupation of the scheme. However, as this is a private road it is not possible for the applicant to undertake the required upgrade works without third party approval. The information on file does not adequately demonstrate that the applicant has approval or a sufficient legal interest in the lands to carry out these works.
- 7.4.6. The applicants red line boundary also extends through lands to the east of the site, also within the ownership of the applicant and subject to a current appeal ABP.316260-23, and through Hunters Leap residential estate. However, from the drawings submitted it would appear that this is a pedestrian access only. Hunters Leap is

connected to the town centre by Sea Road. The southern boundary of Hunters Leap is located c. 360m east of Newcastle Road (town centre). It is noted that there is no continuous footpath on Sea Road between Newcastle Road and the appeal site.

7.4.7. It is noted that Objective 2 of the Newcastle Town Plan aims to Improve and provide roads, footpaths and cycleways, inter alia, along the L5550 (Sea Road) from Hunters Leap to the R761 and along Leamore Lane from the town centre to the settlement boundary. However, these works are outside of the control of the applicant and would require third party agreement.

7.4.8. In conclusion, the absence of adequate pedestrian infrastructure connecting the subject site to Newcastle town centre I agree with the planning authority that the proposed development would endanger public safety by reason of traffic hazard and it is my recommendation that permission be refused on this basis.

7.5. **Water Services**

7.5.1. The planning authority's second reason for refusal considered that the proposed development would be premature having regard to the existing deficiency in the provision of sewerage facilities serving Newcastle and the period within which wastewater treatment facilities, adequate to serve the development, may be provided. The third reason for refusal considered that given the deficiencies in the existing municipal sewer network and treatment system, the Planning Authority could not be satisfied, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of the Murrough Special Protection Area and The Murrough Wetlands Special Area of Conservation in view of the sites Conservation Objectives. The concerns relating to the impact Natura 2000 site is addressed below in Section 8 Appropriate Assessment.

7.5.2. The Newcastle Town Plan states that the capacity of the Waste Water Treatment Plant located on Sea Road is 1,000 population equivalent (pe) with a 2022 loading of c. 900 PE. Therefore capacity for new development is limited.

7.5.3. The response to the request for further information and the appeal note the Annual Environmental Report (AER) for the Newcastle Waste Water Treatment Plant for 2020 had a remaining capacity of 102 PE (population equivalent). This is marginally higher

than the figure (100 PE) set out in the development plan for 2022. Based on the average household size of 2.7 persons the WWTP has a capacity for an additional c. 37 residential units before reaching capacity.

- 7.5.4. The appeal notes that permission was granted for 9 no. residential units and a commercial use in 2022. It is assumed that the commercial unit would equate to 1 no. residential unit (10 no. units total). Therefore, this previously approved scheme reduces the capacity of the WWTP to c. 27 no. residential units. There is also a concurrent appeal on the adjacent site to the west for 4 no. houses, which would further reduce the capacity of the WWTP to 23 no. residential units.
- 7.5.5. The proposed development comprises 27 no. residential units. Therefore it would marginally exceed the capacity of the WWTP by 4 no. residential units. As noted above, 5 no. dwellings are located on unzoned lands. Therefore, if permission was granted it would relate to 22 no. dwellings only and would be within the capacity of the existing WWTP.
- 7.5.6. Notwithstanding the above, Section 9 of the applicants appeal states that the Peak Hydraulic Capacity of the WWTP was constructed as 540m³/d and that the 2021 Flow Records for the WWTP indicate a Max Effluent value of 478m³/d. Based on the 2021 figures the applicant considers that there is a remaining capacity of 62m³/d. The proposed scheme, in combination with the approved scheme and the current appeal, would discharge a total of 18.5m³/d. Therefore, the WWTP would have a remaining hydraulic capacity of 43.5m³/d. In the interest of clarity this information is summarised in Table 12 of the appeal.
- 7.5.7. The applicant has engaged with Uisce Eireann in relation to a concept design report for upgrades to the WWTP. A Project Works Service Agreement has been issued and is attached as Appendix B of the appeal.
- 7.5.8. Overall, it is my recommendation that permission be refused for the proposed scheme due to absence of adequate pedestrian infrastructure connecting the site to Newcastle town centre, which in my opinion would endanger public safety by reason of traffic hazard. However, I am satisfied that the provision of c. 22 houses on lands zoned for residential development would not be premature due to existing deficiency in the

provision of sewerage facilities serving Newcastle and that any concerns could be addressed by way of condition.

8.0 **Appropriate Assessment**

8.1. An Appropriate Assessment Screening Report and a Natura Impact Assessment prepared by Altamar Marine and Environmental Consultancy were submitted with the application. The AA Screening Report includes a description of the proposed development, identifies the European Sites within a possible zone of influence of the development and an assessment of the potential impacts arising from the development. The Stage 1 assessment concludes that acting on a strictly precautionary principle given the close distance from the proposed development site to the Murrrough Wetlands SAC and the Murrrough SPA the effect of the project cannot be excluded, a Stage 2 Appropriate Assessment was carried out.

8.2. The Natura Impact Statement identifies elements of the project potentially impacting on the Natura network and mitigation measures to protect Natura sites. The NIS concluded, subject to the mitigation measures outlined in the NIS, that there would be no significant adverse effects on any Natura 2000 site as a result of the proposed development, alone or in combination with other plans or projects.

8.2.1. Having reviewed the documents and submissions on the case, I am satisfied that the information provides a reasonable basis for the examination and identification of potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

8.3. **Stage 1 AA Screening**

The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Brief Description of the Proposed Development

8.3.1. A description of the project is summarised in Section 2 of my report. The proposed development comprises the construction of 27 no. residential units. The surrounding area is in transition, to the south and west it is suburban in character and to the north and east it is rural in character. The site is serviced by public water supply and foul drainage networks. The development site is a greenfield site, previously in agricultural use. There are no flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site. The Newcastle Stream runs sites southern boundary at the junction of Hunters Leap and Sea Road. This watercourse flows in an easterly direction and ultimately discharges to the Irish Sea via The Murrough Wetlands SAC and The Murrough SPA which overlap and comprise a coastal wetland area.

Zone of Influence

8.3.2. The proposed development is not located within or immediately adjacent to any European Site. Appropriate Assessment Guidance (2009) recommends an assessment of European sites within a Zone of Influence of 15km. However, this distance is a guidance only and a potential Zone of Influence of a proposed development is the geographical area over which it could affect the receiving environment in a way that could have significant effects on the Qualifying Interests of a European site. In accordance with the OPR Practice Note, PN01, the Zone of Interest should be established on a case-by-case basis using the Source- Pathway-Receptor framework and not by arbitrary distances (such as 15km). The Zone of Influence may be determined by connectivity to the proposed development in terms of:

- Nature, scale, timing and duration of works and possible impacts, nature and size of excavations, storage of materials, flat/sloping sites;
- Distance and nature of pathways (dilution and dispersion; intervening 'buffer' lands, roads etc.); and
- Sensitivity and location of ecological features

8.3.3. A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in the table below. Where a possible connection

The Glen of the Downs SAC (000719)	Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	c. 7km	No	No
Carriggower Bog SAC (000716)	Transition mires and quaking bogs [7140]	c. 7.3km	No	No
Bray Head SAC (0007141)	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030]	c. 9.6km	No	No
Wicklow Reef SAC (002274)	Reefs [1170]	10.3km	No	No
Wicklow Head SPA (004127)	Kittiwake (<i>Rissa tridactyla</i>) [A188]	c. 11km	No	No
Wicklow Mountains SAC (002122)	Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110] Natural dystrophic lakes and ponds [3160] Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] European dry heaths [4030] Alpine and Boreal heaths [4060] Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130] Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230] Blanket bogs (* if active bog) [7130] Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110] Calcareous rocky slopes with chasmophytic vegetation [8210]	c. 13km	No	No

	Siliceous rocky slopes with chasmophytic vegetation [8220] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Lutra lutra (Otter) [1355]			
Wicklow Mountains SPA (004040)	Merlin (Falco columbarius) [A098] Peregrine (Falco peregrinus) [A103]	c. 13km	No	No
Deputy's Pass Nature Reserve SAC (000717)	Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	14.5km	No	No

8.3.4. The proposed development has no potential source pathway receptor connections to any other European Sites.

Identification of likely effects

8.3.5. The development site is not located within The Murrough SPA (004186) or The Murrough Wetlands SAC (002249). Therefore, it would not result in temporary loss, disturbance or disruption of habitat. However, there is potential for effects on these designated sites relating to construction discharges, with the potential to cause a release of suspended solids and hydrocarbons into the hydrologically connected Newcastle Stream, which has the potential to cause indirect effects on the water dependant species and habitats of the designated sites through a reduction in water quality.

8.3.6. Given the proximity and the hydrological connection between the appeal site and both The Murrough SPA (004186) and The Murrough Wetlands SAC (002249) I agree with the assessment of the applicants Screening Report that in the absence of mitigation measures, it is not possible to rule out impacts which could negatively impact on qualifying interests of the designated sites.

8.3.7. The planning authority also refused permission for the proposed scheme regarding a potential adverse impact on the integrity of The Murrough SPA and The Murrough Wetlands SAC impact due to deficiencies in the existing municipal sewer network and

treatment system. Due to the potential cumulative impact of the proposed scheme and the concurrent appeal (ABP. 316261-23) it is my view that this needs further consideration.

- 8.3.8. As outlined in the table above I am satisfied that the potential for impacts on the remaining 8 no. designated sites (The Glen of the Downs, Carriggower Bog SAC, Bray Head SAC, Wicklow Reef SAC, Wicklow Head SPA, Wicklow Mountains SAC, Wicklow Mountains SPA and Deputy's Pass Nature Reserve SAC) can be excluded at the preliminary stage due to the separation distance between the European site and the proposed development site, the nature and scale of the proposed development, the absence of a hydrological link and an absence of relevant qualifying interests in the vicinity of the works and to the conservation objectives of the designated sites.

Screening Determination

- 8.3.9. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in-combination with other plans or projects could have a significant effect on The Murrough SPA (004186) or The Murrough Wetlands SAC (002249), in view of the site's Conservation Objectives, and Appropriate Assessment and submission of a NIS is, therefore, required.

8.4. ***The Natura Impact Statement***

- 8.4.1. The NIS examines and assesses the potential adverse effects of the proposed development on The Murrough SPA (004186) and The Murrough Wetlands SAC (002249). I am satisfied that it was prepared in line with current best practice guidance and provides an assessment of the potential impacts to the designated sites and an evaluation of the mitigation measures proposed.

Appropriate Assessment of implications of the proposed development

- 8.4.2. The following is a summary of the objective assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects

are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

8.4.3. I have relied on the following guidance:

- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service.
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC
- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC

8.4.4. The NIS provides a detailed description of The Murrough Wetlands SAC (002249) (pages 36 – 54) and The Murrough SPA (004186 (pages 55 - 57). Details of the sites Conservation Objectives and qualifying interests are also available on the NPWS website (www.npws.ie).

8.4.5. The table below summarises the appropriate assessment and integrity test for the SAC and SPA. The conservation objectives, targets and attributes as relevant to the identified potential adverse effects have been examined and assessed in relation to all aspects of the project (alone and in combination with other plans and projects). I have also examined the Natura 2000 data forms as relevant and the conservation objectives supporting documents for the sites. Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been assessed. In terms of possible in-combination effects, plans, programmes and existing and proposed developments were considered. This allows for clear, precise and definitive conclusions to be reached in terms of adverse effects on the integrity of European sites.

8.4.6. **Potential Adverse Impacts**

The main aspects of the proposed development that could adversely affect the conservation objectives of European sites include the following: -

Hydrological Link: There is a direct hydrological connection from the appeal site to both The Murrough Wetlands SAC (002249) and The Murrough SPA via surface water

drainage. The southern boundary of the appeal site, at its junction of Hunters Leap and Sea Road is immediately adjacent to the Newcastle Stream. The Newcastle Stream flows in an eastward direction and ultimately discharges to the Irish Sea via The Murrough Wetlands SAC (002249) and The Murrough SPA, which overlap. Sea Road and Hunters Leap will serve as the site access / haul road and it is proposed to discharge surface water outfalls to the Newcastle Stream. Therefore, there is potential for indirect effects on surface water quality during site preparation and earthworks, including potentially contaminating material such as oils, fuels, lubricants, other construction related solutions and cement based products would be used on site during the construction phase and the accidental emission of such a material would have the potential to undermine water quality within the Newcastle Stream.

Any uncontrolled release of contaminated surface water to the Newcastle Stream would likely be rapidly diluted and distributed prior to reach the designated sites. Notwithstanding this, the ongoing discharge of waters with high concentrations of contaminating substances could over time lead to the deposition of such contaminants, which has the potential to undermine the conservation status of the designated sites.

Table 8 of the NIS recommends mitigation measures to protect the environment from pollutants. These include engaging an ecologist to oversee enabling works; phasing of the project works to reduce risk to watercourses from contamination; controlled release of water during the construction phase; proactive control of dust; and regular monitoring by the Site Manger.

I am satisfied that adherence to best practices methodologies during the construction phase would control the release of sediments to surface water and prevent surface and ground water pollution as a result of accidental spillages or leaks.

Foul Network: It is proposed to connect the appeal site to the existing public foul network under Hunters Leap and Sea Road, which discharges to the Newcastle Wastewater Treatment Plant for treatment. Following treatment the wastewater is released into the Newcastle Stream. As noted above in Section 7.5, The 2021 AER for the Newcastle WWPT indicates that there is a capacity of 98 PE. Based on the average household size of 2.7 persons the WWTP has a capacity for an additional c.

36 residential units. Having regard to a previously approved (and yet unbuilt) scheme it is assumed the WWTP has capacity for c. 25 no. residential units. The proposed development comprises 27 no. residential units. Therefore it would marginally exceed the capacity of the WWTP by 2 no. residential units. As noted above, 5 no. dwellings are located on unzoned lands and it is my recommendation that if permission was granted that these units should be omitted from the scheme. Therefore, the approved scheme would be within the capacity of the existing WWTP.

Section 9 (Figure 8) of the applicants appeal states that the WWTP was constructed with a Peak Hydraulic Capacity of 540m³/d. Figure 10 indicates that there was a hydraulic capacity of 62 m³/d in 2021. The proposed scheme, in combination with the approved scheme and the current appeal, would discharge a total of 18.5m³/d. Therefore, the WWTP would have a remaining hydraulic capacity of 43.5m³/d.

In addition, it is noted that the applicant has engaged with Uisce Eireann in relation to a concept design report for upgrades to the WWTP. A Project Works Service Agreement has been issued and is attached as Appendix B of the appeal. The submission on file from Uisce Eireann states that while there is minimal capacity in the Newcastle Wastewater Treatment Plant, there are plans to increase headroom.

While the limited capacity of the WWTP and the concerns of the planning authority are noted, I am satisfied that the foul discharge from the proposed scheme would not negatively impact on the Murrough SPA and The Murrough Wetlands SAC.

Noise Disturbance: The site is located c. 600m from The Murrough SPA. Having regard to the separation distance (c. 600m) between the appeal site and the SPA there is limited potential for noise disturbance to impact on qualifying interests during the construction phase.

Loss of Habitat: The appeal site is located c. 600m from The Murrough SPA and is not identified as an ex-situ site. I am satisfied that the loss of c. 2.05ha of grassland habitat would have no adverse impact on qualifying species recorded at the SPA.

The Murrough Wetlands SAC

Key issues that could give rise to adverse effects includes: -

- Direct Impact on Water Quality

Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community interest.

Summary of Appropriate Assessment

Qualifying Interest feature	Conservation Objective	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Annual vegetation of drift lines [1210]	To restore the favourable conservation condition of Annual vegetation of drift lines in The Murrough Wetlands SAC	Discharges – activities associated with construction and operation may result in the release of sediment, chemical or other waste	Adherence to best practices methodologies during the construction phase. Phasing of project to reduce risk to watercourses from contamination Earthworks operations shall be designed with adequate drainage, falls and profile to run off and prevent ponding and flow. Sealing of drainage ditches On-site inspections by ecologist	No effects	Yes
Perennial vegetation of stony banks [1220]	To restore the favourable conservation condition of Perennial vegetation of stony banks in The Murrough Wetlands SAC			No effects	Yes
Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]	To restore the favourable conservation condition of Atlantic salt meadows (Glauco-Puccinellietalia maritimae) in The Murrough Wetlands SAC			No effects	Yes

		material pollution.	Prior to discharge of water from the site adequate filtration will be provided			
Mediterranean salt meadows (Juncetalia maritimi) [1410]	To restore the favourable conservation condition of Mediterranean salt meadows (Juncetalia maritimi) in The Murrrough Wetlands SAC	Foul Network Discharges	Temporary construction surface drainage and sediment control measures, including silt fences.	No effects	Yes	
Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]	To restore the favourable conservation condition of Calcareous fens with Cladium mariscus and species of the Caricion davallianae in The Murrrough Wetlands SAC,		Stockpiling of loose materials a minimum of 20m from watercourses	Fuel, oil and chemical storage will be located within bunded areas at least 50m away from any watercourse.	No effects	Yes
Alkaline fens [7230]	To restore the favourable conservation condition of Alkaline fens in The Murrrough Wetlands SA		Bunds will be kept clean.	Pro-active control of dust.	No effects	Yes
			Plant and equipment not stored in proximity to watercourses.	Regular monitoring by Site Manger.		
			During the operational phase a hydrocarbon interception will be put in place.			

			No protective measures are required to prevent negative impacts from the foul network.		
<p>Overall conclusion: Integrity test Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.</p>					

The Murrough SPA

Key issues that could give rise to adverse effects includes: -

- Direct Impact on Water Quality
- Disturbance of QI

Conservation Objective: To maintain or restore the favourable conservation condition of the wetland habitat at The Murrough SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

Summary of Appropriate Assessment

Qualifying Interest feature	Conservation Objective	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Red-throated Diver (<i>Gavia stellata</i>) [A001]	To maintain or restore the favourable conservation condition of the bird species	Discharges – activities associated with construction and operation may result in the release of	Adherence to best practices methodologies during the construction phase. Phasing of project to reduce risk to watercourses from contamination	No effects	Yes
Greylag Goose (<i>Anser anser</i>) [A043]	To maintain or restore the favourable conservation condition of the bird species			No effects	Yes

Light-bellied Brent Goose (Branta bernicla hrota) [A046]	To maintain or restore the favourable conservation condition of the bird species	sediment, chemical or other waste material pollution.	Earthworks operations shall be designed with adequate drainage, falls and profile to run off and prevent ponding and flow. Sealing of drainage ditches	No effects	Yes
Wigeon (Anas penelope) [A050]	To maintain or restore the favourable conservation condition of the bird species			No effects	Yes
Teal (Anas crecca) [A052]	To maintain or restore the favourable conservation condition of the bird species	Discharges – Foul Network Disturbance – Construction Noise Impacts and operations impacts from human and canine disturbance.	On-site inspections by ecologist Prior to discharge of water from the site adequate filtration will be provided Temporary construction surface drainage and sediment control measures, including silt fences. Stockpiling of loose materials a minimum of 20m from watercourses. Fuel, oil and chemical storage will be located within bunded areas at least 50m away from any watercourse.	No effects	Yes
Black-headed Gull (Chroicocephalus ridibundus) [A179]	To maintain or restore the favourable conservation condition of the bird species			No effects	Yes
Herring Gull (Larus argentatus) [A184]	To maintain or restore the favourable conservation condition of the bird species			No effects	Yes
Little Tern (Sterna albifrons) [A195]	To maintain or restore the favourable conservation condition of the bird species	Loss of Habitat		No effects	Yes

<p>Wetland and Waterbirds [A999]</p>	<p>To maintain or restore the favourable conservation condition of the bird species</p>		<p>Bunds will be kept clean.</p> <p>Pro-active control of dust.</p> <p>Regular monitoring by Site Manger.</p> <p>Plant and equipment not stored in proximity to watercourses.</p> <p>During the operational phase a hydrocarbon interception will be put in place.</p> <p>No protective measures are required to prevent negative impacts from the foul network.</p> <p>No protective measures are required relating to construction noise impacts and operations impacts from human and canine disturbance.</p>	<p>No effects</p>	<p>Yes</p>
--------------------------------------	---	--	--	-------------------	------------

			No protective measures are required to prevent a loss of habitat		
<p>Overall conclusion: Integrity test Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.</p>					

8.5. *In Combination Effects*

8.5.1. Table 3 of the applicants NIS outlines proposed / approved developments located in the areas surrounding the appeal site. *ABP 310294-21, Reg. Ref. 20/764* granted permission in 2022 for 9 no. residential units and a commercial unit on Main Street, located c. 300m north west of the appeal site is not included in Table 3.

8.5.2. It is my view that there is potential for in-combination effects from surface water and the foul network. These are addressed separately.

Surface Water

8.5.3. There is a concurrent appeal (*ABP. 316260-23*) for 4 no. houses located immediately east of the appeal site, which is also within the ownership of the applicant. The red line boundary of both appeals includes the public internal estate road in Hunters Leap. Both sites will feed into the same surface water drainage network. Therefore, there is potential for in combination effects with regard to surface water run-off from both the appeal site and the adjacent site.

8.5.4. In the absence of mitigation measures, contaminated surface water run off could potentially enter the Newcastle Stream which could negatively impact on The Murrough Wetlands SAC and The Murrough SPA. I agree with the applicants NIS that mitigation measures are required to ensure that there are no in-combination effects as a result of the proposed development on the adjacent site (*ABP 316260-23*).

Foul Network

8.5.5. The proposed adjacent development (*ABP. 316260-23, Reg. Ref. 22/341*) and the scheme granted under *ABP 310294-21, Reg. Ref. 20/764* for 9 no. residential units and a commercial use will also feed into the same network. Therefore, there is potential for in combination effects with regard to the foul network.

8.5.6. The Newcastle Town Plan as set out in Volume 2 of the Development Plan states that the capacity of the Waste Water Treatment Plant located on Sea Road is 1,000 population equivalent (pe) with a 2022 loading of c. 900 PE. Therefore capacity for new development is limited.

- 8.5.7. Based on the average household size of 2.7 persons the WWTP has a capacity for an additional c. 37 residential units before reaching capacity. The scheme granted under ABP 310294-21, Reg. Ref. 20/764 reduces the capacity of the WWTP to c. 27 no. residential units. The concurrent appeal on the adjacent site to the west is for 4 no. houses. Therefore, in combination the proposed / approved developments would marginally exceed the capacity of the WWTP, by 4 no. residential units.
- 8.5.8. Section 9 of the applicants appeal states that the WWTP was constructed with a Peak Hydraulic Capacity of 540m³/d. The 2021 Flow Records for the WWTP indicate a Max Effluent value of 478m³/d. Based on the 2021 figures it would appear that there is a remaining capacity of 62m³/d. The proposed scheme, in combination with the approved scheme and the concurrent appeal, would discharge a total of 18.5m³/d. Therefore, the WWTP would have a remaining hydraulic capacity of 43.5m³/d.
- 8.5.9. It is noted that the applicant has engaged with Uisce Eireann in relation to a concept design report for upgrades to the WWTP. A Project Works Service Agreement has been issued and is attached as Appendix B of the appeal. The submission on file from Uisce Eireann states that while there is minimal capacity in the Newcastle Wastewater Treatment Plant, there are plans to increase headroom.
- 8.5.10. Having regard to the information submitted with the appeal and by way of further information I am satisfied that the foul discharge from the 3 no. developments outlined above could be accommodated within the Newcastle WWTP and would not be likely to have a significant effect on any designated site.

8.6. ***Appropriate Assessment Conclusion***

- 8.6.1. The proposed development has been considered in light of the assessment requirements of Section 177 of the Planning and Development Act, 2000 (as amended).
- 8.6.2. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on both The Murrough Wetlands SAC and The Murrough SPA due to a hydrological link via the Newcastle Stream and the close proximity between the sites. Consequently, a Stage 2 Appropriate Assessment

(NIS) was required of the implications of the project on the qualifying features of the site in light of its conservation objectives.

8.6.3. Following an Appropriate Assessment, it has been ascertained that subject to the implementation of mitigation measures outlined in the NIS that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of The Murrough Wetlands SAC or The Murrough SPA, or any other European site, in view of the site's Conservation Objectives.

8.6.4. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives The Murrough SPA (004186) and The Murrough Wetlands SAC (002249)
- Detailed assessment of in-combination effects with other plans and projects including current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of The Murrough SPA (004186) or The Murrough Wetlands SAC (002249)

9.0 Recommendation

It is recommended that permission be refused for the following reasons and considerations.

10.0 Reasons and Considerations

1. The development is reliant on improvement works to Leamore Lane, on lands that are outside of the control of the applicant. In the absence of adequate pedestrian infrastructure connecting the subject site to Newcastle town centre, the proposed development would generate pedestrian movements on the carriageway of Leamore Lane and Sea Road, which would endanger public safety by reason of a traffic hazard. The proposed development would,

therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed density, which is a result of the proposed unit mix, would be contrary to the provisions of the provisions of the Sustainable Residential Development and Compact Settlements Guidelines to provide a density of 25 - 40 units per hectare and to the provisions of Table 3.1 of Appendix 1 (development standards) of the Wicklow County Development Plan 2022-2028 to provide a density of 20 - 35 units per hectare at edge of centre sites. The site of the proposed development is on serviceable lands, within the development boundary of Newcastle, which is designated as a Small Town. It is considered that the proposed development would not be of a sufficiently high density to provide for an acceptable efficiency in serviceable land usage, and that the low density proposed would be contrary to the Ministerial Guidelines, which indicate that net densities less than 25 dwellings per hectare should generally be discouraged in the interest of land efficiency. It is considered that the proposed development would be contrary to the National Planning Framework which aims to achieve compact growth through effective density and consolidation rather than more sprawl of urban development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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

Elaine Power

Senior Planning Inspector

28th February 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	316261-23		
Proposed Development Summary	The construction of 27 no. houses and all associated works to facilitate the development. An NIS was submitted with the application.		
Development Address	c2.05ha lands located south of Leamore Lane, Newcastle, Co. Wicklow		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
	Threshold	Comment (if relevant)	Conclusion
No	N/A		No EIAR or Preliminary Examination required
Yes	10 (b)(i): Construction of more than 500 dwelling units	The proposed scheme falls below the	Proceed to Q.4

	<p>10 (b)(iv): Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.</p> <p>15: 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.</p>	<p>applicable thresholds.</p>	
--	---	-------------------------------	--

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Appendix 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	316261-23		
Development Summary	The construction of 27 no. houses and all associated works to facilitate the development. An NIS was submitted with the application.		
Examination			
			Yes / No / Uncertain
1. Is the size or nature of the proposed development exceptional in the context of the existing environment?			No
2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?			No
3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*?			No
4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?			No
Comment (if relevant)			
Conclusion			
Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment **?			
There is no real likelihood of significant effects on the environment	EIAR not required		X
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	Screening Determination required		No
	Sch 7A information submitted?	Yes	No
There is a real likelihood of significant effects on the environment	EIAR is required (Issue notification)		

Inspector _____ **Date:** _____

DP/ADP _____ **Date:** _____

(only where EIAR/ Schedule 7A information is being sought)

* Sensitive locations or features include SAC/ SPA, NHA/ pNHA, Designated Nature Reserves, and any other ecological site which is the objective of a CDP/ LAP (including draft plans)

** Having regard to likely direct, indirect and cumulative effects