



An  
Bord  
Pleanála

## Inspector's Addendum Report

**ABP-317154-23A**

<b>Development</b>	The development of 8 no. warehouse units with ancillary office & staff facilities.
<b>Location</b>	Listcartan, Navan, Co. Meath.
<b>Planning Authority</b>	Meath County Council.
<b>Planning Authority Reg. Ref.</b>	22/866
<b>Applicant(s)</b>	BCL Elite Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant of Planning Permission.
<b>Type of Appeal</b>	Third Party v Grant of Planning Permission.
<b>Appellant(s)</b>	Noel Foley Johanna & Sean Harding Mark Hornby Sean Harding Jnr.
<b>Observer(s)</b>	None.

**Date of Site Inspection**

21/06/2024.

**Inspector**

Enda Duignan.

## **1.0 Introduction**

**1.1.** This report should be read in conjunction with the original Inspector's Report in respect of ABP-317154-23 dated 31<sup>st</sup> July 2024. This report recommended that planning permission be refused for the proposed development for the following 2 no. reasons:

1. Noting the commentary within the submitted documentation that the proposed wastewater treatment system shall be installed, commissioned and operated in full compliance with the EPA Code of Practice for Domestic Wastewater Treatment Systems (2021), the Board is cognisant of Section 6.9 (Wastewater) of the Meath County Development Plan, 2021-2027, which indicates that for larger developments, the requirements for wastewater treatment plants are set out by the EPA Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (1999) and EPA Guidance on the Authorisation of Discharges to Groundwater (EPA 2011). In addition, it is an objective of the current Plan (INF OBJ 13) 'To ensure that septic tanks, proprietary effluent treatment systems and percolation areas are located and constructed in accordance with the recommendations and guidelines of the EPA and the Council in order to minimise the impact on surface water of discharges'. In the absence of documentary evidence regarding the adequacy of the proposed wastewater treatment plant, the Population Equivalent that the wastewater system is designed to and the suitability of the site to cater to a development of this scale, the Board is not satisfied that it has been adequately demonstrated that the proposed development would not be prejudicial to public health by way of groundwater contamination. This is particularly relevant when considering the high and extreme groundwater vulnerability that applies to the appeal site and the location of the proposed treatment plant and percolation area, relative to the proposed surface water attenuation pond and the existing drainage ditch to its north-west, where a hydrological link exists between the appeal site and the SAC and SPA associated with the River Blackwater (i.e. located c. 230m to the north). In this regard, the proposed development would be contrary to the aforementioned objective (INF OBJ 13) of the Meath County Development Plan, 2021-2027, would be prejudicial to public health and would therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act, 2000, as amended. In the

absence of documentary evidence regarding the adequacy of the proposed wastewater treatment plant, the Population Equivalent that the system is designed to and the suitability of the site to cater to a development of this scale, it is not certain that significant effects to the River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299) and the River Boyne and River Blackwater Special Protection Area (SPA) (Site Code: 004232) can be ruled out. This is particularly relevant when considering the high and extreme groundwater vulnerability that applies to appeal site and the location of the proposed treatment plant and percolation area, relative to the existing drainage ditch to its north-west, where a hydrological link exists between the appeal site and the SAC and SPA associated with the River Blackwater (i.e. located c. 230m to the north). The proposed development would therefore be contrary to Objective HER OBJ 33 of the Meath County Development Plan, 2021-2027, the Section 28 Ministerial Guidelines *‘Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities, 2009’* and the proper planning and sustainable development of the area.

## **2.0 Background**

**2.1.** On 29<sup>th</sup> August 2024, the Board issued a notice to the Applicant under Section 132 of the Planning and Development Act, 2000 (as amended) as they were of the opinion that certain information is necessary for the purposes of enabling it to determine the appeal. The Applicant was required to submit the following information on or before the 18<sup>th</sup> September 2024.

1. The submission of a Site Characterisation Report, referred to in the documentation but not supplied for the consideration of the Board.
2. Clarification as to how the applicant proposes to meet the requirements of Section 6.9 (Wastewater) and INF OBJ 13 of the Meath County Development Plan, 2021-2027.

**2.2.** This report considers the documentation received from the Applicant and submissions made on foot of the request from the Third Party appellants and the Planning Authority.

## **3.0 Response to Board’s Correspondence**

**3.1. First Party Response**

- 3.1.1. The Applicant's agent submitted a formal response to the Board's request on 9<sup>th</sup> September 2024. This included a cover letter (dated 3<sup>rd</sup> September 2024) prepared by the Applicant's consulting engineer and a Site Characterisation Form (including appendices). The matters raised within the response are discussed in detail in Section 4 of this report.

### **3.2. Third Party Response**

- 3.2.1. A response to the Applicant's further information has been received from the Third Party appellants. A summary of the matters raised in each response is detailed below.

#### ***Noel Foley***

- 3.2.2. Forest Environmental Research and Services (FERS) have prepared a response to the further information on behalf of the appellant. The submission highlights that the River Blackwater is at risk of not meeting the requirements of the Water Framework Directive (WFD). It is submitted that Nitrate and Phosphate levels, and consequent eutrophication levels in Irish surface, ground and transitional water bodies are subject to significant nutrient loading from wastewater treatment sources that have not been adequately quantified by the Applicant. Notably, cumulative impacts associated with domestic septic tanks or the wastewater treatment system utilised by the adjacent industrial estate has not been considered. The submission states that there has been no attempt to assess qualitatively or quantitatively, the existing nutrient loading of ground/surface water associated with existing wastewater treatment systems or potential cumulative impacts. Concerns are also raised given the location of the site relative to the public water supply at Liscarton (i.e. Liscarton water treatment plant), which provides drinking water for over 30,000 people in the Navan area.

- 3.2.3. It is contended that the submission does not address the inadequacy of the information presented with respect to the proposed development. It is the view of the appellant's ecologist that it has not been demonstrated with any scientific accuracy that the proposed development does not have the potential to have a significant negative impact on the environment. For this reason, it is recommended that permission be refused.

***Johanna & Sean Harding, Mark Hornby & Sean Harding Jnr.***

3.2.4. A submission has been prepared on behalf of the Third Party appellants which highlight that concerns had previously been raised with respect to the failure of the development to comply with Objective DM OBJ 61 of the current Plan which required the submission of specific information for developments of this nature. It is stated that the applicant failed to do this, and the previous concerns raised remained valid which include:

- Failure to submit details of the individual uses or projected employment levels. This is relevant in order to assess the impact of the hydraulic and BoD loading on the proposed wastewater treatment system. It is argued that the Board does not have the essential information for a proper assessment of the application in respect of effluent treatment and disposal.
- No breakdown of the hourly operation of the individual units were supplied despite the premises proposing to operate 24 hours per day. It is contended that information with respect to employment levels and associated working hours over the full day are essential requirements for design.
- It is noted that the loading selected by the effluent system designers specifically excludes the discharge from any canteens (appendix A of the site characterisation form). Concerns are raised that the PE of 150 used in the Site Characterisation Form is unrealistic.

3.2.5. The submission also reiterates the following points that were raised in the Third Party appeal:

- It is highlighted that there were no details of the design of the proposed wastewater treatment system on the planning file.
- Condition 5 of the previous grant on the site required the Applicant in that application to connect to the town sewer.
- It is indicated that the location of the treatment plant is at the north west of the site. It is contended that this is the wrong location for the design of the sewer network for the site in respect of a possible future connection to the town system.
- The submission notes the proximity of the water retention pond relative to the treatment plant and it contended that the zone of influence of the treatment plant discharge would extend under the detention pond.

### **3.3. Planning Authority**

- 3.3.1. A response has been received from the Planning Authority dated 26<sup>th</sup> September 2024 which has indicated that they have no further comment at this time.

## **4.0 Planning Policy**

### **4.1. Consolidated Meath County Development Plan 2021-2027 (incl. Variations 1 & 2)**

- 4.1.1. The original Meath County Development Plan 2021-2027 (adopted on 22<sup>nd</sup> September, 2021) has been superseded by the Consolidated version of the Meath County Development Plan 2021-2027 (incl. Variations 1 & 2) adopted on the 13th May 2024. I note that there has been no material changes to the policies of the current Plan regarding wastewater treatment or the protection of watercourses.
- 4.1.2. Section 6.9 (Wastewater) of the current Plan notes that the provision of well-maintained quality wastewater treatment infrastructure is essential to facilitate sustainable development in the County, while also protecting the environment and public health. In unserviced areas and outside the main settlements, the main method of sewage disposal is by means of individual septic tanks and proprietary wastewater treatment systems. The requirements for these systems are set out in the EPA Code of Practice for Wastewater Treatment Systems and Disposal Systems Serving Single Houses (2010). For larger developments the requirements are set out by the EPA Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (1999) and EPA Guidance on the Authorisation of Discharges to Groundwater (EPA 2011).
- 4.1.3. It is the policy of the Council:
- INF POL 11 To liaise and work in conjunction with Irish Water during the lifetime of the Plan in the provision, upgrading or extension of wastewater collection and treatment systems in the County to serve existing and planned future populations and enterprise in accordance with the requirements of the Core and Settlement Strategies.
  - INF POL 12 To require that in the case of all developments where the public foul sewer network is available or likely to be available and has sufficient capacity, that development shall be connected to it.
  - INF POL 13 To consider the potential for the provision of temporary wastewater

treatment facilities for new developments but only where a permanent solution has already been identified and committed to by Irish Water but has not yet been implemented. The provision of such temporary facilities shall only be considered where the solution is environmentally sustainable and would not affect the quality status of receiving waters. Adequate provision shall be made by the developer for the operation and maintenance of the proposed temporary facility for the duration of its required existence and thereafter for its decommissioning and removal from site.

4.1.4. It is an objective of the Council:

- INF OBJ 11 To ensure that all development shall connect to the public foul sewer network where available within the County.
- INF OBJ 12 The Planning Authority shall consider the provision of temporary wastewater treatment facilities for new developments only in circumstances where a permanent solution is identified and committed to by Irish Water. The temporary solution shall only be considered where it is deemed to be environmentally sustainable and would not affect the water quality status of receiving waters. Adequate provision shall be made by the developer for the operation and maintenance of the temporary facility for the duration of the operation of the required infrastructure.
- INF OBJ 13 To ensure that septic tanks, proprietary effluent treatment systems and percolation areas are located and constructed in accordance with the recommendations and guidelines of the EPA and the Council in order to minimise the impact on surface water of discharges.

## **4.2. Ireland's 4<sup>th</sup> National Biodiversity Action Plan 2023–2030**

4.2.1. Ireland's 4<sup>th</sup> National Biodiversity Action Plan (NBAP) sets the national biodiversity agenda for the period 2023-2030 and aims to deliver the transformative changes required to the ways in which we value and protect nature. I note that this was published in January 2024 but was not specifically referenced in the original Inspector's Report in respect of ABP-317154-23 dated 31<sup>st</sup> July 2024. The NBAP will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:

- Objective 1 - Adopt a Whole of Government, Whole of Society Approach to



Biodiversity,

- Objective 2 - Meet Urgent Conservation and Restoration Needs,
- Objective 3 - Secure Nature's Contribution to People,
- Objective 4 - Enhance the Evidence Base for Action on Biodiversity
- Objective 5 - Strengthen Ireland's Contribution to International Biodiversity Initiatives.

#### **4.3. Water Framework Directive (WFD)**

4.3.1. Water quality and quantity in Ireland's rivers, lakes, groundwaters, estuaries and coastal waters is assessed under the Water Framework Directive (WFD). The WFD requires EU member States to achieve water quality of at least Good Status in rivers, lakes, groundwater, estuaries and coastal waters, by 2027 at the latest. Surface waters are classified into five quality classes (Ecological status) under the WFD, being either High, Good, Moderate, Poor and Bad Ecological status. Groundwater is classified into two quality classes, Good and Poor Ecological status. High Ecological status is when the water is unpolluted, while at the opposite end of the classification Bad Ecological status is when the water is highly polluted. The two principal objectives of the WFD are:

- That all water bodies must reach at least 'Good' overall status by 2027, at the latest. For surface waters, good overall status is a combination of good ecological status (or potential) and good chemical status; and,
- That the status of each water body, including all the quality elements which make up the overall status, must not deteriorate relative to the baseline reported in the relevant RBMP.

### **5.0 Assessment**

#### **5.1. Wastewater Disposal**

5.1.1. In response to the Board's request, the Applicant's consulting engineer has now enclosed the site-specific Site Characterisation Form (SCF) which relates to the site investigations carried out on the 25<sup>th</sup> May 2022. It is stated that this document sets out the proposal for an on-site wastewater treatment system in the normal way, including on-site testing of percolation and soil type and choosing a suitable primary, secondary and tertiary treatment system. It is contended by the Applicant's consulting engineer that the SCF remains valid as the site conditions remain unaltered and the

development as designed remains as originally proposed. As part of the correspondence from the Board (29<sup>th</sup> August 2024), the Applicant was requested to clarify how they propose to meet the requirements of Section 6.9 (Wastewater) and INF OBJ 13 of the current Plan. In response, the Applicant reiterates that an on-site wastewater treatment plant is proposed to serve the development as there is an absence of a Local Authority foul sewer in the vicinity of the site. It is stated that the proposed treatment plant will provide the industry standard primary, secondary and tertiary treatment of the foul sewage prior to discharge to ground through controlled infiltration. As the development consists of multiple warehousing units, it is confirmed that the system has been designed to comply with the EPA Wastewater Treatment Manual - Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (1999). In addition, it is stated that the EPA Guidance on the Authorisation of Discharge to Groundwater (EPA 2011) has been followed in the system design and will be followed in system implementation as per the requirements of the current Plan (i.e. Section 6.9 (Wastewater) and INF OBJ 13).

5.1.2. As I have detailed in the original Inspector's Report in respect of ABP-317154-23 dated 31<sup>st</sup> July 2024, Irish Water have confirmed in a report on the planning file that a connection to existing Irish Water wastewater infrastructure is not feasible in this instance. Therefore, the Applicant is proposing to provide a single private wastewater treatment plant to serve the warehousing units. I note that the existing Unilin Insulation manufacturing facility (formerly known as Xtratherm) to the north-west of the site is also reliant on a private wastewater treatment plant. Planning permission was previously granted (Ref. NA181170) on the Unilin site for the development of a 50 P.E BAF WwTP, pump chamber and a percolation upgrade. A further permission (Ref. 2360193) was granted on that site for an extension of the facility in November 2023. This included permission to relocate and upgrade the existing sewage treatment system (85 PE BAF system). As discussed in the original Inspector's Report (ABP-317154-23), it was not evident from the reports of the Planning Authority whether the wastewater disposal was fully considered during the course of the application.

5.1.3. Given the nature and scale of the current proposal, regard is given to the requirements for private wastewater treatment plants as set out by the EPA Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and

Hotels (1999) (referred to herein as the EPA Manual, 1999). Table 3 (Recommended Wastewater Loading Rates from Commercial Premises) of the EPA Manual, 1999 set outs the applicable loading rates which are detailed in Table 5.1 below. The purpose of this manual is to provide guidance in the selection, operation and maintenance of small wastewater treatment systems (i.e. for population equivalents between 10 - 500).

**Table 5.1**

<b>Situation</b>	<b>Source</b>	<b>Flow litres/day per person</b>	<b>BOD<sub>5</sub> grams/day per person</b>
Industrial	Office and/or factory without canteen	30	20

5.1.4. I note that it is also relevant to have due regard to the EPA Code of Practice Domestic Wastewater Treatment (Population Equivalent  $\leq 10$ ), 2021 (referred to herein as the EPA COP, 2021). Whilst it relates primarily to domestic treatment plants, it is the most recent EPA publication on wastewater disposal and sets out a relevant methodology for site assessment and selection, installation and maintenance of appropriate wastewater treatment systems. Of particular relevance, it sets out how trial hole and percolation tests are to be carried out and assessed. I note that the methodologies for site characterisation as detailed in the EPA COP, 2021 are therefore applicable to the subject proposal and are referred to in the Applicant's SCF. The objective of a site characterisation is to obtain sufficient information from an assessment of the site to determine if an on-site wastewater treatment can be developed at that location.

5.1.5. The appeal site is located in an area with a Locally Important (LI) aquifer of moderate, high and extreme vulnerability. However, the majority of the site is located within an area of high vulnerability. The SCF notes groundwater was encountered at a depth of 1.7m in the 2.1m deep trial hole. Bedrock was not encountered within the trial hole. The soil was topsoil in the upper 300mm, sandy gravelly clay (mottled from 0.5m) to 1m below ground level, and sandy gravelly clay within the remainder of the trial hole. The SCF identifies a Groundwater Response of R1. As per Table E1 (Response Matrix for DWWTSs) of the EPA COP, 2021, a Groundwater Response of R1 is 'Acceptable subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with this CoP)'. As detailed in Section 6 of the SCF, it is recommended to instal a tertiary treatment system (Ecoflo Coco Filters) with an above

ground infiltration. This includes the importation of 400mm of soil with a certified T value of between 10 and 20. In addition a 300mm layer of 12 to 32mm diameter gravel should be placed above the imported soil to provide adequate separation (0.9m - from the point of infiltration to the mottled soil). It is stated that the 300mm thick infiltration area below the coco filters are sized according to Option 6 in Table 10.1 of the EPA COP, 2021. The assessor has calculated this to be 2,175m<sup>2</sup> (i.e. 25m<sup>2</sup> x 87 PE). A section diagram and layout plan of the proposed wastewater treatment plant and percolation area (in isolation) has been illustrated on Drawing No. D5 PL1 and shows that wastewater would be pumped up from the secondary wastewater treatment plant and then would percolate through the coco filters, stone, imported soil, before infiltrating to ground.

- 5.1.6. In terms of the trial hole assessment, a subsurface (T) test is used to test the suitability of the subsoil at depths greater than 400mm below the ground level. As per the SCF, the initial T-test result (Average T<sub>100</sub>) was 252 minutes. In instances where the T<sub>100</sub> is > 210 minutes, it is recommended to go to Step 5 (i.e. modified test method). As per the EPA guidance (EPA COP, 2021), this modified percolation test method may be used to obtain a percolation test result in areas with low permeability soils. However, it appears that the site assessor did not follow the correct procedure by advancing to Step 5 but instead, proceeded to Step 4 (i.e. T<sub>100</sub> is ≤ 210 minutes). Under Step 4, the subsurface percolation value was recorded to be 69.72 (rounded up to 70 in SCF). A P-test (surface) was also carried out which gave a surface percolation value 15.89 (rounded up to 16 in SCF). It is clear from the SCF that upper soils within the trial hole demonstrate good drainage qualities. However, the good drainage characteristics reduce significantly at 500mm below ground level. This is evidenced by the poor test results and the presence of mottling recorded within the trial hole. Mottling of the soil layers can indicate either the depth of the water table in winter or impermeability within the soil and subsoil. As per the EPA COP, 2021, if the soil or subsoil is mottled at a level above 500mm below ground, the site will usually be unacceptable for discharge to ground, as the upper level of mottling is taken to be that of the water table or of periodic saturation, unless site improvement works can be proved to be successful on the site. As the correct procedure has not been followed in the SCF in determining the T-test results, concerns therefore remain regarding the suitability of the site to cater to a development of this scale.

5.1.7. As per Section 1 of the SCF, the projected number of staff within the proposed development is 520. I note that this information does not appear to have been provided elsewhere within the planning documentation on file as prospective end users for the warehousing development had not been identified. Concerns had been raised by the Third Party appellants that the provision of this information was critical to ensure that the wastewater treatment system was suitable for the scale of development proposed. Given the projected staffing levels (i.e. 520), the hydraulic loading for the proposed development would equate to 15.6m<sup>3</sup> (15,600L) per day which must disseminate to groundwaters. As detailed in Table 5.1 above, this figure is based on a daily hydraulic allowance per staff of 30L per day (i.e. Office and/or factory without canteen) as per the EPA Manual, 1999. The BOD<sub>5</sub> grams/day per person is also estimated to be 10,400grms (i.e. 20 grams/day per person as per the EPA Manual, 1999). Population Equivalent is the conversion value which aims at expressing non-domestic applications in terms of domestic loading and is typically based on 1 person creating 60 g/day BOD<sub>5</sub> and 150l/day as per the EPA COP, 2021. Therefore, a hydraulic loading of 15.6m<sup>3</sup> would equate to a daily PE of 104 for the proposed development. This in contrast to the 87 PE (hydraulic loading) provided by the site assessor in Section 1 of the SCF (where a figure of 180l/day per person was applied). These calculations are provided in Table 5.2 below.

**Table 5.2:** Calculations based on 520 no. staff.

	<b>Applicant's SCF</b>	<b>Calculations based on the EPA Manual, 1999 &amp; EPA COP, 2021.</b>
Hydraulic Loading	15,600L	15,600L
BOD <sub>5</sub>	10,400 grams	10,400 grams
Population Equivalent (Hydraulic Loading)	87	104
Tertiary Infiltration Area Required (sq.m.) (Table 10.1 of the EPA COP, 2021)	2,175sq.m.	2,600sq.m.
Coco Filters (Hydraulic Loading)	3 x 1Ecoflo 6 10,800L (i.e. 72 PE)	Required 15,600L (i.e. 104 PE)

5.1.8. I note that the sizing of the infiltration area for the tertiary treatment system must accord with Option 6 in table 10.1 of the EPA COP (2021). In this instance, it is

necessary to take the higher of the percolation rates returned (i.e. T-test result of 70). Therefore, the loading rate on the infiltration area will be 25l/m<sup>2</sup>. This would require an infiltration area with a minimum surface area of 2,600m<sup>2</sup> given the hydraulic loading (104 PE) of the proposed development. On this basis, it is my view that the infiltration area of 2,175m<sup>2</sup> as specified by the assessor would be undersized for the hydraulic loading associated with the development. Further to this, the 3 no. Ecoflow 6EH units as shown on the Drawing No. D5 PL1 and in the product details appended to the SCF, indicate that the coco filters could only accommodate a hydraulic loading of 10,800L per day or a 72 PE equivalent (i.e. c. 30% undersized). In this regard, it is considered that both the provision of the tertiary filters and the infiltration pad are undersized for the staffing levels proposed. This could result in the overloading of the treatment system and would therefore be prejudicial to public health and would fail to accord with the pertinent policy of the current Plan (2021-2027).

- 5.1.9. Whilst undertaking my inspection, I observed the site to be firm underfoot and there was an absence of features that would be typical of poor drainage such as rushes or evidence of ponding. However, my site inspection was undertaken during the summer period, and it is clear from the information submitted within the SCF that the recorded subsoils have poor drainage characteristics. As noted, doubt also exists over the accuracy of the subsoil testing results given the correct procedures do not appear to have been followed (i.e. did not advance to Step 5). Further to this, it is considered that both the tertiary filters and the infiltration pad proposed are significantly undersized, given the staffing levels proposed. For this reason, I have concerns regarding the suitability of the wastewater treatment system given the site conditions and its ability to effectively dispose of wastewater. In light of the foregoing, the proposed development would, therefore, be prejudicial to public health, would fail to accord Section 6.9 (Wastewater) and Objective INF OBJ 13 of the current Plan (2021-2027) and would be contrary to the proper planning and sustainable development of the area. For this reason, the development should be refused permission.

## **5.2. Appropriate Assessment Implications**

- 5.2.1. As noted, there is a hydrological connection between the site and River Boyne and River Blackwater SAC (Site Code: 002299) and River Boyne and River Blackwater SPA (Site Code: 004232) via the drainage ditches which carries surface water from

the site into the River Blackwater. This is located along the north-western site boundary and appears to have been identified as a dry ditch within the Applicant's SCF. Notwithstanding the information detailed in Section 3.4 of the SCF, a scaled sketch of the site showing the location of the trial hole and other key features of the site and surrounds has not been enclosed. This would typically be required in all developments that rely on private wastewater treatment plants. In addition, I undertook my site inspection during the summer period and there was evidence of standing water in the existing drainage ditch. Given the hydrological connection that exists, the Applicant's AA Screening indicates that in the event of rainfall, and the absence of appropriate mitigation measures, there is potential for sediments/pollutants from the site to enter the River Blackwater via surface water run-off during both the Construction Phase and Operational Phases. This could result in impacts on water quality in the River Boyne and River Blackwater SAC and SPA. As such, an NIS was prepared to assess the potential impacts of the Construction Phase and Operational Phase (i.e., run-off which could enter via the River Blackwater) on the River Boyne and River Blackwater SAC and River Boyne and River Blackwater SPA and set out appropriate mitigation.

- 5.2.2. Within the Applicant's NIS, the focus of the mitigation is on surface water run-off. The NIS is silent on the issue of wastewater disposal and there is no reference to the fact that a development of this scale is reliant on a private wastewater treatment system. As I have outlined earlier in this report, I have significant concerns regarding the ability of the site to effectively treat and dispose of wastewater. In addition, it is considered that both the tertiary filters and the infiltration pad proposed are significantly undersized based on information provided regarding staffing levels. Given the presence of mottling within the subsoil, there is the potential for the lateral movement of wastewater within the site in the event of an elevated water table or if the wastewater treatment system became overloaded. This of particular concern, given its location relative to the existing drainage ditch to the north-west, where a hydrological connection exists to the River Blackwater. Whilst it may be possible to rectify this, there is uncertainty here in relation to impact of the proposal on groundwater and the consequent subsurface flows to the River Blackwater. Therefore, it is not certain that significant effects to the River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299) and the River Boyne and River Blackwater Special

Protection Area (SPA) (Site Code: 004232) can be ruled out. For this reason, permission should therefore be refused.

### **5.3. Water Framework Directive**

5.3.1. As noted in Section 4, water quality and quantity in Ireland's rivers, lakes, groundwaters, estuaries and coastal waters is assessed under the WFD. The WFD requires EU member States to achieve water quality of at least Good Status in rivers, lakes, groundwater, estuaries and coastal waters, by 2027 at the latest. Planning Authorities are required to consider whether proposals for new developments have the potential to:

- Cause a deterioration of any quality element of a water body from its current status or potential; and/or
- Prevent future attainment of good status or potential where not already achieved.

5.3.2. The River Blackwater (BLACKWATER (KELLS)\_120) is monitored for water quality by the EPA and the river was most recently classified (SW 2016-2021) as an 'At Risk' water body with a 'Poor' Ecological Status under the WFD. The site is also located within the Athboy Groundwater Body (IE\_EA\_G\_001). This groundwater body has a 'Good' overall groundwater status and was classified as 'Not at Risk' for the period 2016-2021 under the WFD. As detailed throughout this report, concerns are raised with respect to the adequacy of the wastewater treatment system, the drainage characteristics of the soil and its ability to effectively treat and dispose of foul water. Given the site is hydrologically connected to the River Blackwater, the development as currently proposed may result in the further deterioration of the existing water quality and could prevent the future attainment of a 'Good' status under the WFD. Given the uncertainty that arises in this instance, it is my view that the Board is precluded from granting planning permission and permission should therefore be refused. I note that this would be a new issue for the Board's consideration.

## **6.0 Recommendation**

6.1. I refer to the previous Inspector's Report and recommendation on this application dated 31<sup>st</sup> July 2024 to refuse planning permission. I am satisfied that the commentary and information provided by the Applicant in response to the Board's notice dated 29<sup>th</sup>



August 2024, and the response to the Applicant's submission by the Planning Authority and the Third Party appellants, does not alter the conclusion reached in that of my initial report and I still recommend that permission be refused. However, an additional reason for refusal has been added and it is my view that the original reasons for refusal should be amended as follows:

1. Section 6.9 (Wastewater) of the Meath County Development Plan, 2021-2027, indicates that for larger developments, the requirements for wastewater treatment plants are set out by the EPA Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (1999) and EPA Guidance on the Authorisation of Discharges to Groundwater (EPA 2011). In addition, it is an objective of the current Plan (INF OBJ 13) 'To ensure that septic tanks, proprietary effluent treatment systems and percolation areas are located and constructed in accordance with the recommendations and guidelines of the EPA and the Council in order to minimise the impact on surface water of discharges'. Having regard to the totality of the documentation on file, including the Site Characterisation Form, it has not been adequately demonstrated that the site and wastewater treatment system can effectively treat and dispose of foul water. Therefore, it is considered that the proposed development would be prejudicial to public health by way of groundwater contamination. For this reason, the proposed development would be contrary to the aforementioned objective (INF OBJ 13) of the Meath County Development Plan, 2021-2027, would be prejudicial to public health and would therefore, be contrary to the proper planning and sustainable development of the area.
2. In light of the requirements of Section 177V of the Planning and Development Act, 2000, as amended, an appropriate assessment of the proposed development has been carried out. Having regard to the totality of the documentation on file, including the Site Characterisation Form, it has not been adequately demonstrated that the site and wastewater treatment system can effectively treat and dispose of foul water. This of particular concern given the location of the wastewater treatment system relative to the existing drainage ditch to the north-west, where a hydrological connection exists to the River Blackwater. In this regard, it is not certain that significant effects to the hydrologically connected River Boyne and River Blackwater

Special Area of Conservation (Site Code: 002299) and the River Boyne and River Blackwater Special Protection Area (SPA) (Site Code: 004232) can be ruled out. For this reason, the proposed development would be contrary to Objective HER OBJ 33 of the Meath County Development Plan, 2021-2027, the Section 28 Ministerial Guidelines '*Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities, 2009*' and the proper planning and sustainable development of the area.

3. Given the potential inadequacy of the wastewater treatment system, the poor drainage characteristics of the soil and its ability to effectively treat and dispose of foul water, it is considered that the proposed development may result in the further deterioration of the existing water quality of the River Blackwater (BLACKWATER (KELLS)\_120)) and could prevent the future attainment of a 'Good' status under the Water Framework Directive. Given the uncertainty that arises in this instance, the Board is precluded from granting planning permission for the proposed development.

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

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Enda Duignan  
Planning Inspector

09/12/2024