



An
Bord
Pleanála

Inspector's Report

ABP-317447-23

Development

Integrated

Tourism/Leisure/Recreational (ITLR) complex comprising firstly of a two storey over lower ground level building and secondly, 48 no. accommodation pods along the east of the site. A dedicated structure, located at the north end of the site adjacent the beach access, containing a surf school facility, public W.C. and public showers and all associated sited works. A Natura Impact Statement is included with this planning application.

Location

Magheramore, County Wicklow

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

23337

Applicant(s)

Creatively Pacific Limited

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party v. Decision

Appellant(s)	Creatively Pacific Limited
Observer(s)	(1) Dervla Murphy
	(2) Aoife Fogarty
	(3) Eoin McCarthy Deering
	(4) Dept. of Housing, Local Government and Heritage
	(5) Rachel Loughrey
	(6) Anna McGrath Moffitt & Bill Moffitt
	(7) Ronan Kane
	(8) Simon Digby
	(9) Debbie Bailey
	(10) John & Anna Murphy & others
	(11) Ardmore Point Residents Group
	(12) Nina Kennedy
	(13) Alec Dunne
	(14) Kristyna Alessandrini
	(15) Margarete and Des O'Meara
	(16) Rosie Lavan & Martin Dyar
	(17) Judy Osborne
	(18) Stephen Matthews TD
	(19) Kavin Cavey
	(20) Keep Ireland Open
	(21) Anne Hudson
	(22) Laura & Tristan Bailey
	(23) Lucy McGilligan

Date of Site Inspection 19th September 2024

Inspector Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 2.966 ha and is located on the northern side of Ardmore Point, overlooking Magheramore Beach in Co. Wicklow. Magherabeg Beach is located on the southern side of the headland. The site is located approx. 4 km north (as the crow flies) of Brittas Bay Beach and approx. 6 km south of Wicklow Town. The site is accessed via regional road R750. The lands in the vicinity of the site are rural in nature and are primarily characterised by farmland, associated agricultural buildings and one-off rural dwellings. Wicklow Hospice and St. Columban's Nursing Home are located to the north-west of the appeal site on the opposite side of the regional road.
- 1.2. Access to the site is via a tree-lined laneway of approx. 550 m in length which is gated adjoining the public road and provides pedestrian access towards the beach. Double yellow lines extend along the public road on either side of the access. A gravel verge on its northern side facilitates informal parking for approx. 7 no. cars. A dry ditch was observed intermittently adjoining the laneway's northern and southern boundaries.
- 1.3. Farmland and associated agricultural buildings are located on either side of the laneway adjacent to the regional road. These properties also have access onto the laneway. A parcel of farmland on the northern side of the laneway is being used as an informal car park for visitors to Magheramore Beach and is accessed via the regional road. A further residential dwelling is located at the north-eastern end of the laneway.
- 1.4. The main body of the site adjoins and is elevated above Magheramore Beach. This part of the site is narrow in form at its northern end and is characterised by grassland and an area of hardcore. A steep track provides public access to the beach adjoining the north-eastern site boundary. At the time of the inspection, 2 no. container units, a trailer and a portable toilet facility were in place on this part of the site. The containers and trailer were being used for storage purposes by Brittas Bay & Magheramore Surf School.
- 1.5. The site opens out as it extends in a southerly direction and is characterised by grassland which was being used to graze horses. This part of the site slopes gently from west to east towards the coast. The southern, western and north-eastern

boundaries of the main body of the site are defined by mature trees. Intermittent views of the beach are available through the trees along the north-eastern boundary. The south-eastern boundary adjoining the coast is open and is defined by cliff edges, offering expansive views across the beach and Irish Sea.

2.0 Proposed Development

- 2.1. The proposed development will consist of a new integrated tourism/leisure/recreational (ITLR) complex comprising a new 2-storey over lower ground level building containing a gym, sauna, cinema and outdoor pool (24 m x 10 m) at lower ground level, a reception, bar and restaurant, washrooms and outdoor terrace at ground floor and an event room at 1st floor.
- 2.2. It is proposed to install 48 no. accommodation pods (21 m² each) along the east of the site and to construct a dedicated structure (92 m²) located at the north end of the site adjacent the beach access, containing a surf school facility, public w.c. and public showers. 49 no. car parking spaces, including 3 no. universal accessible spaces and set down area and 13 no. bike parking spaces are proposed to serve the ITLR facility.
- 2.3. The existing pedestrian access from the R750 will be widened to facilitate vehicular access and shall be carrier controlled. The proposal includes all associated site works, excavation, engineering services, SUDS, landscaping, fencing, bin stores and road works.
- 2.4. The enhancement and supplementation of the existing planting is proposed along the southern and western boundaries to protect the existing ecology. The existing public pedestrian access to the beach will remain unaffected.
- 2.5. The proposed development is arranged across the southern / south-western portion of the site elevated above Magheramore Beach. The main building has a curved profile and fronts onto a circular soft landscaped space. The accommodation pods are arranged in a curved configuration around the opposite side of the landscaped space, opposite the main building. The proposed surf school building is located towards the north-eastern corner of the main body of the site, proximate to the existing beach access. Most of the proposed car parking spaces adjoin the proposed surf facility. The proposed universal car parking spaces and bicycle parking spaces adjoin the main building at the southwestern end of the site.

- 2.6. The main building has an overall height of c. 36.325 m over a ground level of c. 24.5 m at its southern end, sloping down to c. 27.51 m over a ground floor level of c. 19.210 at its northern end (drawing No. PP10 Proposed Elevations refers). The lower ground floor of the building has a floor to ceiling height of 3.5 m, with the swimming pool extending to a further 1.4 m. It is proposed to incorporate limestone within the façade of the main building and roof of the reception building to reflect the bedrock geology of the site. The eastern façade of the building facing the coast is characterised by a large amount of glazing, with timber framed windows and solid timber panelling.
- 2.7. The accommodation pods have a distinct angled roof profile, and each unit accommodates a double bedroom with ensuite and a terrace space. The lodges will be clad in native larch boarding, which will extend over the roof and will be finished in a dark stain.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Permission for the proposed development was issued by the Planning Authority on 29th May 2023 for 7 no. reasons, which can be summarised as follows:

(1) Insufficient evidence has been submitted to demonstrate beyond reasonable scientific doubt that the proposed development would not adversely affect the integrity of the Magherabeg Dunes SAC in view of the site's conservation objectives and qualifying interests in particular having regard to:

(a) The likely anthropological impacts as a direct result of the proposed development which would result in significant increased year-round visitors in the area of the SAC,

(b) The risk of ground water contamination due to the failure of the applicant to demonstrate that an adequate wastewater treatment system can be provided to serve a commercial development of this scale at this sensitive location, noting the proximity of the tufa/petrified springs and the indicated recharge zone on the site itself which feeds the tufa/petrified springs.

(c) The risk of groundwater contamination due to run-off during the construction phase noting the proximity of the buildings to the indicated recharge zone of the tufa/petrified springs.

(d) Impact on groundwater levels due to changes in quantity of subsurface water flows as a result of long-term extraction due to the proposed well, and potential enrichment of those subsurface waters from the proposed percolation area of the wastewater treatment system.

(2)(a) – (h) The proposed development would contravene Objectives CPO 11.1, CPO 11.4, CPO 17.35, CPO 17.36, CPO 19.8 and CPO 19.23 of the Wicklow County Development Plan 2022, would set an undesirable precedent for similar type development in this sensitive landscape, would appear visually out of character with the coast and would interfere with the environmental quality and amenities of Coastal Cell 8 and would therefore be contrary to the proper planning and sustainable development of the area.

(3) The Ecological Impact Assessment carried out has failed to demonstrate that the proposed development would not have a significant impact on locally important natural habitats, species or wildlife corridors. The granting of permission for the proposed development would therefore be contrary to Objectives CPO 17.7, CPO 17.8 and CPO 17.12 of the 2022-2028 county development plan.

(4) Insufficient information has been submitted to demonstrate that the proposed development would not require an Environmental Impact Assessment having regard to the isolated and undeveloped nature of the site and surrounding environs, the environmental sensitivities of the site and its surrounding environs, in particular, the adjoining SAC and NHA and the biodiversity and ecosystems they support and the nature and scale of the proposed development, which would be out of character with the existing pattern of development in the area. To grant permission for the proposed development would be contrary to the EIA Directive.

(5) The applicant has failed to justify the extent of tree removal along the access laneway and to assess the potential impact of tree removal and widening of the laneway on the ecological and biodiversity value of this 500 m treeline. The proposed development would therefore be contrary to Objectives CPO 17.14 and CPO 17.18 of the development plan.

(6) The proposed development would endanger public safety by reason of serious traffic hazard as inadequate information has been submitted to show that sightline distances can be achieved, and that adequate car parking has been provided on site to accommodate staff.

(7) Insufficient information has been submitted to establish that the likelihood of erosion at this specific location is minimal and that the proposed development is in accordance with CPO 19.11 of the 2022-2028 county development plan which seeks to protect public and private investment by prohibiting any new building or development within 100 m of 'soft shorelines'.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. Basis of Planning Authority's decision.

3.3. Other Technical Reports

3.3.1. **Fire Officer:** Further Information recommended regarding: (1) how adequate firefighting water supply of 1,000 litres per minute will be provided in the area of the main structure, (2) confirmation of vehicle access for fire brigade appliances in accordance with technical guidance and that there is a means for fire brigade appliances to pass any vehicles travelling the opposite direction.

3.3.2. **Planning, Development and Environment:** Recommends that planning permission be refused on the basis that the development poses an unacceptable risk to the sensitive tufa springs in the downgradient SAC from potential impacts from the proposed wastewater discharge to groundwater on the site relating to changes in quantity of subsurface water flows and potential enrichment of those subsurface waters.

3.3.3. **Transportation, Water and Emergency Services:** Further Information recommended in relation to the following:

(1) Existing parking on the R750 may obstruct sightlines on exiting the proposed development. Unclear where sightlines are measured to.

(2) Further details on how the proposed kerb line at the entrance will tie into the R750.

- (3) Quantum and location of staff car parking.
- (4) Whether the loss of the existing gravel car park has been considered in the quantum of proposed car parking.
- (5) How access will be granted to the disability parking which may be blocked by the set-down/pick-up area in front of these spaces. How service vehicles will access the building.
- (6) Concern that the proposed grassed surface on the disabled parking bays may be unsuitable.
- (7) Access road may lead to inappropriate speeding (shared space with pedestrians).
- (8) Lighting will not be taken in charge by Wicklow County Council.
- (9) Lantern lighting colour temperatures should be a warm fitting (c. 2,700 k) and not the proposed 4,000 k units proposed.
- (10) No autotrack information provided on how vehicles will access and negotiate the service area to the rear of the proposed building.

3.4. Prescribed Bodies

- 3.4.1. **Fáilte Ireland:** Supports the addition of high-quality visitor accommodation and notes that the proposed surf school facility, public w.c. and public showers would support the outdoor activity sector at Maghermore Beach. States that it is imperative that tourism development proposals benefit the community and the natural environment in a balanced manner.
- 3.4.2. **Dept. of Housing, Local Government and Heritage:** Detailed submission which notes the following:
 - An Archaeological Impact Assessment should be requested as Further Information.
 - More detailed understanding required of the baseline hydrogeological and ecohydrological environment, including a minimum of 1 year groundwater level and quality monitoring and sampling from the tufa spring locations and groundwater wells.

- Notes that the identified recharge area is smaller than the zone of contribution of the 2 no. tufa spring habitats of the SAC. The development may disturb preferential flow pathways, impede groundwater flow and cause soil compaction.
- The potential change in groundwater extraction and recharge type must be assessed and how this may alter the hydrogeology of the tufa springs and the dune system, which may require groundwater flow monitoring.
- Runoff from external shower facilities will be allowed to drain directly to ground – potential issue with soaps/shampoos transferred to the beach and tufa springs by groundwater flows.
- Site Suitability Report states that further testing of the percolation area will be carried out prior to the commencement of development. AA must contain complete, precise and definitive findings. The suitability of the entire area must be established prior to the AA conclusion.
- The nitrate level that is anticipated to be achieved with the WWTP prior to discharge to the sand polishing filter is 11 mg/l. The conservation objective target for tufa spring is no increase from baseline nitrate level and less than 10 mg/l.
- Further information should be provided on the identified public use of the site (145 people).
- Impacts of the use of cleaning products on water quality must be determined and pesticide use must be prohibited.
- No mention of petrol/oil interceptors to deal with pollution from car park or during construction phase.
- The NIS proposes annual spring surveys for the petrified springs for 2 no. years post completion of the development. The Dept. queries why such surveys have not been carried out over a similar timeframe to inform the NIS.
- The rationale and effectiveness of mitigation measures must be demonstrated before the project is approved and an appropriate monitoring programme must be devised.
- No certainty provided in the NIS that specific avoidance measures will be employed to avoid significant adverse effects on the tufa spring habitats.

- The suitability of all SUDS measures in areas of high and extreme groundwater vulnerability to pollutants and in areas of high water table must be assessed.
- Impacts of Ferric Sulphate dosing on water quality and measures to monitor dosing levels must be included in the NIS.
- Sources of all imported fill must be established.
- The NIS does not make enough provision to adequately deal with potential adverse impacts at operational and construction phases and the wide number of variables that may constitute a risk to the ecological and hydrogeological functioning of the tufa springs.
- Impacts on the fixed dune habitat and embryo dune habitat within the Magherabeg subsite of the SAC should have been considered further in the NIS, including suggested mitigation measures.
- The full extent of potential habitat on Magheramore Beach must be determined.
- The impacts on QI habitats of a longer tourist season and longer daily visitation period must be assessed.
- Wildflower planting must not be carried out.
- NIS must assess the impacts of current recreational visitor use of the site in combination with the proposed development.
- The EcIA has an extremely low level of ecological field survey.
- The impacts of overflow of storm water on sea cliff habitat in addition to increased recreational pressure must be assessed.
- Proposal does not provide evidence that adequate consideration has been given to current or future erosion rates.

3.5. Third Party Observations

- 3.5.1. A total of 94 no. third party observations as on file from: (1) Rory O'Brien and Murt Stones (2) Colin McCann (3) Richard Kenny (4) Richard Nairn (5) Rita McCann (6) Aoife Ní Fhógartaigh (7) Margarete O'Meara (8) Debbie Bailey (9) Valerie Fox (10) Clare Byrne (11) Brian Redmond (12) Dervla Murphy (13) Anna Harvey (14) Kate Purcell (15) Rosemary Kearney (16) Niamh Connolly (17) Karin Dubsky (18) Liz

Carrigy (19) Joyce Lee (20) Rachel Loughrey (21) Killiney Bay Surf Club (22) Katherine Michael (23) Dawn O'Connor (24) John & Nola Lambert (25) Jonathan Horn (26) Melinda Finlay (27) Alison Rosewarne (28) Neasa Donnellan (29) Caroline Sutherland (30) Julia Banks (31) Martin Dyar (32) Robert Lee (33) Eoin McCarthy Deering (34) Ali Crighton (35) Irene Ní Shúilleabháin (36) Sam Bishop (37) Karl Byrne (38) Naas Biodiversity Group (39) Declan Ahern (40) Edmond Cussen (41) Rosie Lavan (42) Sinead Nic Gabhann (43) Laura Lambert (44) Bryan Deegan (45) Gervaise Landy (46) Emma Willis (47) Paula Johnston (48) Ronan Kane (49) Barbara Hammond (50) Tristan and Laura Bailey (51) Marcella and Shane Griffin (52) Vanessa Moran and Darragh Geraghty (53) Katayoun Bahramian (54) Brian Fitzsimons (55) Brian Phillips (56) Shane Byrne (57) Susan and Patrick Best (58) Ardmore Point Residents Group (59) Anna McGrath Moffitt (60) Ian Huet & Ashleigh Downey (61) Keep Ireland Open (62) Donal Egan (63) George Brennan (64) Carina Payaneeandee (65) Kathleen Melia, (66) Thomas Gordon (67) Tim Grummell (68) Mary Kavanagh (69) Judy Osborne (70) Mary O'Neill (71) Anne Hudson (72) Niall McKay (73) Nina Kennedy (74) Rachel Morgan (75) Geraldine and Seamus O'Brien (76) Margaret McGeachin Jones (77) John Murphy (78) Amanda Feery (79) Candace M Brooke (80) Lucy McGilligan (81) Peter Sweetman on behalf of Wild Defence Ireland CLG (82) Ben Makin (83) Karol Keane (84) John Darcy (85) Diana McGeachin (86) Suzanne Bennett (87) Michael Dolan (88) Kevin Cavey (89) Linda O'Leary (90) Mark Digby (91) Charlie Fleetwood (92) Niamh MacGowan (93) Nicholas Makin (94) Michelle Doyle.

3.5.2. Representations were also made by: (1) John Brady TD (2) Cllr Peir Leonard (3) Steven Matthews TD.

3.5.3. All third parties are opposed to the proposed development. The issues which are raised can be summarised as follows: (1) proposed development will destroy an extremely sensitive natural habitat on and near the cliff tops, (2) construction impacts on protected dunes, (3) light and noise pollution on nesting birds and migratory waterfowl, (4) impacts on SAC, (5) visual impact on coast, (6) traffic impacts, (7) contravention of / contrary to objectives of the Wicklow County Development Plan 2022-2028, (8) proposal will detrimentally alter the true nature of the landscape, (9) impact on seal population using Magheramore beach during pup season, (10) negative impacts on beach, (11) impact on site drainage, (12) coastal erosion, (13)

impact on tree lined avenue, (14) inadequate mitigation measures, (15) insufficient NIS, (16) significant risk to breeding ground of Curlew and Skylark, (17) high levels of water required for the development will have a negative impact on the groundwater resource feeding the tufa springs, (18) runoff from showers will enter groundwater and the SAC, (19) site not zoned for commercial development, (20) EIA should be carried out, (21) car dependent development, (22) public access to the public beach must be maintained, (23) negative impact on neighbouring hospice, (24) development contradicts Wicklow County Council's climate charter commitment, (25) impact on bats, (26) the use of low embodied carbon materials has not been promoted, (27) unnecessary development, (28) no allocation of public parking for access to the beach, (29) gated development, (30) clarification of legal rights of way required, (31) restricted access for emergency vehicles, (32) exclusive development not accessible to all, (33) existing laneway cannot accommodate increased traffic, (34) no engagement with adjoining landowners, (35) development at odds with NPF for coastal areas, (36) history of planning refusals on the site, (37) laneway leading to the beach has exceptional heritage value, (38) lighting may impact maritime safety, (39) area should be designated as a wildlife reserve, (40) impacts on Marsh Fritillary, (41) impact on prehistoric site W1031-044, (41) pollution impacts, (42) no badger protection measures identified, (43) bat survey should have been undertaken, (44) ecological status of nearby minor stream should be evaluated, (45) no viewpoints provided of the development from the beach, (46) foul water / grey water runoff not accounted for and no dedicated road drainage for the access road, (47) no wintering bird survey carried out, (48) job creation figures appear excessive, (49) insufficient car parking, (50) precedent for unnecessary development, (51) opportunist commercial development, (52) public safety concerns during construction works, (53) access paths to the beach require significant work, (54) project splitting, (55) no consultation with NPWS, (56) no mitigation proposed in relation to invasive species, (57) CEMP not submitted, (56) extent of tree/hedgerow removal not confirmed, (57) recharge map does not fully describe the potential zone of influence for the tufa springs, (58) discharge from wastewater treatment plant will impact on tufa springs, (59) tier 3 impact assessment of discharges to groundwaters required, (60) site is not a development cluster, (61) piling inappropriate at this location, (62) environmental and traffic surveys undertaken at inappropriate times, (63) privatisation of the beach, (64) insufficient sightlines, (65) area of high groundwater

vulnerability, (66) impact on day to day running of adjoining farm, (67) inappropriate, urban development, (68) lack of tourist accommodation / facilities in Wicklow town, (69) inappropriate scale of development, (70) threat to water quality, (71) area of high groundwater vulnerability, (72) concerns over drilling of test wells on the site, (73) the use of signage and information leaflets to avoid impacts to adjoining sensitive environment is wholly inappropriate, (74) stream adjoining northern side of laneway which connects to SAC has not been considered.

4.0 Planning History

4.1. **Planning Authority Reg. Ref. 14/1160:** Planning permission refused for an integrated tourism and recreational development consisting of a partially buried lodge building (8 no. bedrooms with ancillary restaurant and guest facilities), upgrading of existing access road and car park, provision of public facilities building, access road to lodge building, onsite biocycle system, SUDS drainage, landscaping and all associated ancillary works.

4.2. Permission was refused for 3 no. reasons which can be summarised as follows:

(1) Adverse effects on the integrity of Magherabeg Dunes SAC cannot be ruled out.

(2) The proposed development materially contravenes Objectives BD3, BD4, CZ8, TR1, TR4, LA2 and GCZ3 of the county development plan 2010-2016 in relation to tourism, coastal zone management and landscape protection.

(3) The proposed development would be prejudicial to public health as the site is unsuitable for an onsite wastewater treatment system given the high water table and inadequate information with respect to the quality / quantity of the proposed well supply has been submitted.

4.3. **Planning Authority Reg. Ref. 97/7321; ABP Ref. PL 27.106048:** Planning permission refused by the Board for a part single-storey, part 2-storey dwelling for 1 no. reason as follows:

“Having regard to the location of the site on an exposed headland between the public road and the sea and within an area designated in the current Wicklow County Development Plan as an area of Outstanding Natural Beauty and Special Control (which designation is considered reasonable), it is considered that the proposed development would contravene materially the provisions of the development plan for

the area, would be visually obtrusive because of its isolation, haphazard location and lack of natural screening and would seriously injure the unspoilt character and scenic value of the coastline and the adjoining beach. The proposed development would, therefore, be contrary to the proper planning and development of the area”.

5.0 Policy Context

5.1. Wicklow County Development Plan 2022-2028

5.2. Tourism and Recreation

5.2.1. **Objective CPO 11.1:** To promote, encourage and facilitate the development of the tourism and recreation sectors in a sustainable manner.

5.2.2. **Objective CPO 11.3:** To generally require tourism and recreation related developments to locate within existing towns and villages, except where the nature of the activity proposed renders this unfeasible or undesirable. Within existing towns and villages, the Planning Authority will promote and facilitate the development of tourist related uses at appropriate sites. In all cases, the applicant must submit a robust assessment setting out the sustainability of any proposal with respect to economic, environmental and social sustainability, as defined herein.

5.2.3. **Objective CPO 11.4:** To only permit the development of a tourism or recreational facility in a rural area in cases where the product or activity is dependent on its location in a rural situation and where it can be demonstrated that the proposed development does not adversely affect the character, environmental quality and amenity of the rural area or the vitality of any settlement and the provision of infrastructure therein. The natural resource / tourist product / tourist attraction that is essential to the activity shall be located at the site or in close proximity to the site, of the proposed development. The need to locate in a particular area must be balanced against the environmental impact of the development and benefits to the local community.

5.2.4. **Objective CPO 11.6:** To ensure that tourism and recreation related developments are appropriately located in the County. Subject to the following exceptions, all tourist and recreation related developments are ‘open for consideration’ in all landscape areas:

- The following tourist uses will not be permitted within the Area of Outstanding Natural Beauty (both the Mountain Uplands Area and the Coastal Area):
Static caravans and mobile homes,
- Holiday homes will not be permitted in any landscape category other than urban zones except where they comply with objectives CPO 11.13, CPO 11.14, CPO 11.15 and CPO 11.16.

5.2.5. **Objective CPO 11.10:** To facilitate the development of a variety of quality accommodation types, at various locations, throughout the County.

5.2.6. **Objective CPO 11.21:** To support development at existing / proposed integrated tourism / leisure / recreational complexes at the following locations:

- Druids Glen Golf Club, Woodstock Demesne
- Brook Lodge, Macreddin West, Aughrim
- Rathsallagh House, Dunlavin
- Belmont Demesne, Greystones

5.2.7. **Objective CPO 11.22:** To consider applications for the development of further ITLR facilities having regard to:

- accessibility from the east and west transport corridors
- accessibility to major towns and/or centres of population
- proximity to designated tourism/visitor areas
- the existence of other such facilities or major tourist accommodation sites in the vicinity
- the adequacy of the site area and site features to accommodate a range of integrated tourist / leisure / recreational activities
- the Planning Authority will support the development of integrated tourism / leisure / recreational complexes on estate holdings with large estate houses that are directly attached to villages or towns

5.2.8. **Objective CPO 11.23:** To require all applications for development at identified or new ITLR sites to comply with the following requirements:

- development shall be carried out on the basis of an integrated, comprehensive master plan and business plan, to be agreed at the outset of the development with the Planning Authority
- the development as a whole shall be held in the single ownership of the developer. In the event that certain elements of the development will require to be sold / leased to make the project viable, this shall be stated at the outset and measures proposed to operate / manage / market the entirety of the facility as a single entity
- any holiday home / self-catering type accommodation proposed as part of the facility shall accord with CPO 11.14; and
- all development shall be so designed to respect the character of the area and any existing heritage features on the site, including demesne houses or other protected features.

5.2.9. **Objective CPO 11.50:** Where relevant, the Council and those receiving permission for development under the plan, shall manage any increase in visitor numbers and/or any change in visitor behaviour in order to avoid significant environmental effects, including loss of habitat and disturbance. Management measures may include ensuring that new projects and activities are a suitable distance from ecological sensitivities; visitor/habitat management plans will be required for proposed projects as relevant and appropriate.

5.2.10. **Objective CPO 11.51:** Ensure the potential environmental effects of a likely increase in tourists / tourism-related traffic volumes in particular locations / along particular routes shall be considered and mitigated as appropriate. Such a consideration should include potential impacts on existing infrastructure (including drinking water, wastewater, waste and transport) resulting from tourism proposals.

5.2.11. **Objective CPO 11.52:** Where projects for new tourism projects identified in this chapter are not already provided for by existing plans / programmes or are not already permitted, then the feasibility of progressing these projects shall be examined, taking into account planning need, environmental sensitivities as identified in the SEA Environmental Report and the objectives of the plan relating to sustainable development.

5.3. Water Services

- 5.3.1. **Objective CPO 13.2:** To prevent development that would pollute water bodies and in particular, to regulate the installation of effluent storage and disposal systems in the vicinity of natural water bodies or development that would exacerbate existing underlying water contamination.
- 5.3.2. **Objective CPO 13.11:** Where connection to an existing public water supply is not possible, or the existing supply system does not have sufficient capacity, the provision of a private water supply will be only permitted where it can be demonstrated that the proposed water supply meets the standards set out in EU and national legislation and guidance, would not be prejudicial to public health, would not impact on the source or yield of an existing supply, particularly a public supply or would not adversely affect the ability of water bodies to meet the objectives of the Water Framework Directive. Private water supplies for multi-house developments will not be permitted.
- 5.3.3. **Objective CPO 13.18:** Private wastewater treatment plants for commercial / employment generating development will only be considered where:
- Irish Water has confirmed the site is due to be connected to a future public system in the area or Irish Water has confirmed there are no plans for a public system in the area
 - It can be clearly demonstrated that the proposed system can meet all EPA / Local Authority environmental criteria; and
 - An annually renewed contract for the management and maintenance of the system is contracted with a reputable company / person, details of which shall be provided to the Local Authority

5.4. Natural Heritage and Biodiversity

- 5.4.1. **Objective CPO 17.1:** To protect, sustainably manage and enhance the natural heritage, biodiversity, geological heritage, landscape and environment of County Wicklow in recognition of its importance for nature conservation and biodiversity and as a non-renewable resource.
- 5.4.2. **Objective 17.4:** To contribute, as appropriate, towards the protection of designated ecological sites including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs); Wildlife Sites (including proposed Natural Heritage Areas);

Salmonid Waters; Flora Protection Order sites; Wildfowl Sanctuaries (see S.I. 192 of 1979); Freshwater Pearl Mussel catchments; and Tree Preservation Orders (TPOs). To contribute towards compliance with relevant EU Environmental Directives and applicable National Legislation, Policies, Plans and Guidelines.

- 5.4.3. **Objective 17.5:** Projects giving rise to adverse effects on the integrity of European sites (cumulatively, directly or indirectly) arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall not be permitted on the basis of this plan.
- 5.4.4. **Objective 17.6:** Ensure that development proposals, contribute as appropriate towards the protection and where possible enhancement of the ecological coherence of the European Site network and encourage the retention and management of landscape features that are of major importance for wild fauna and flora as per Article 10 of the EU Habitats directive. All projects and plans arising from this Plan will be screened for the need to undertake Appropriate Assessment under Article 6 of the Habitats Directive.
- 5.4.5. **Objective CPO 17.7:** To maintain the conservation value of all proposed and future Natural Heritage Areas (NHAs) and to protect other designated ecological sites in Wicklow.
- 5.4.6. **Objective CPO 17.8:** Ensure ecological impact assessment is carried out for any proposed development likely to have a significant impact on proposed Natural Heritage Areas (pNHAs), Natural Heritage Areas (NHAs), Statutory Nature Reserves, Refuges for Fauna, Annex I habitats, or rare and threatened species including those species protected by law and their habitats. Ensure appropriate avoidance and mitigation measures are incorporated into development proposals as part of any ecological impact assessment.
- 5.4.7. **Objective CPO 17.12:** To protect non-designated sites from inappropriate development, ensuring that ecological impact assessment is carried out for any proposed development likely to have a significant impact on locally important natural habitats, species or wildlife corridors. Ensure appropriate avoidance and mitigation measures are incorporated into development proposals as part of any ecological impact assessment.

- 5.4.8. **Objective CPO 17.14:** Ensure that development proposals support the protection and enhancement of biodiversity and ecological connectivity within the plan area in accordance with Article 10 of the Habitats Directive, including linear landscape features like watercourses (rivers, streams, canals, ponds, drainage channels, etc), woodlands, trees, hedgerows, road and railway margins, semi-natural grasslands, natural springs, wetlands, stonewalls, geological and geo-morphological systems, features which act as stepping stones, such as marshes and woodlands, other landscape features and associated wildlife where these form part of the ecological network and/or may be considered as ecological corridors or stepping stones that taken as a whole help to improve the coherence of the European network in Wicklow.
- 5.4.9. **Objective CPO 17.18:** To promote the preservation of trees, groups of trees or woodlands in particular native tree species, and those trees associated with demesne planting, in the interest of the long-term sustainability of a stable ecosystem amenity or the environment generally, as set out in Schedule 17.05 and Maps 17.05 and 17.05 A - H of this plan.
- 5.4.10. **Objective CPO 17.20:** Development that requires the felling of mature trees of environmental and/or amenity value, even though they may not have a TPO in place, will be discouraged.

5.5. Landscape, Views and Prospects

- 5.5.1. **Objective CPO 17.35:** All development proposals shall have regard to the County landscape classification hierarchy in particular the key landscape features and characteristics identified in the Wicklow Landscape Assessment (set in Volume 3 of the 2016 County Development Plan) and the 'Key Development Considerations' set out for each landscape area set out in Section 5 of the Wicklow Landscape Assessment.
- 5.5.2. The appeal site is located in a Coastal Area of Outstanding Natural Beauty – Area 2(b): The Southern Coastline. The Key Development Considerations for this area, as set out in the Landscape Assessment are:
- (1) To promote the opening up of views from the coast road to the sea and to restrict development on the sea-ward side of the road where it would be injurious to the beach setting or injurious to tourism or where it would be visible between the road and the sea except where settlements already exist. Particular protection will be

afforded to the coastal areas of Magherabeg, Brittas Bay, Ennereilly and Clogga Beach.

(2) To facilitate the enhancement of recreational amenities and facilities in this area to the extent that it is consistent with maintaining the capacity of the area (including its beach and bathing water quality, sand dunes) in a manner that does not diminish its unique rural, scenic and recreational amenities.

5.5.3. **Objective CPO 17.36:** Any application for permission in the AONB which may have the potential to significantly adversely impact the landscape area shall be accompanied by a Landscape / Visual Impact Assessment, which shall include, inter alia, an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape, a series of photos or photomontages of the site / development from clearly identified vantage points, an evaluation of impacts on any listed views / prospects and an assessment of vegetation / land cover type in the area (with particular regard to commercial forestry plantations which may be felled thus altering character / visibility). The Assessment shall demonstrate that landscape impacts have been anticipated and avoided to a level consistent with the sensitivity of the landscape and the nature of the designation.

5.5.4. **Objective CPO 17.38:** To protect listed views and prospects from development that would either obstruct the view / prospect from the identified vantage point or form an obtrusive or incongruous feature in that view / prospect. Due regard will be paid in assessing development applications to the span and scope of the view / prospect and the location of the development within that view / prospect.

5.5.5. Prospect no. 31 identified in Schedule 17.12 of the development plan is relevant to this case and is defined as the prospect towards the sea from the coast road from regional road R570 between Wicklow and Arklow.

5.6. **Marine Spatial Planning and Coastal Zone Management**

5.6.1. **Objective CPO 19.8:** To protect the character and visual potential of the coast and conserve the character and quality of seascapes.

5.6.2. **Objective CPO 19.9:** To strictly control the nature and pattern of development within coastal areas and ensure that it is designed and landscaped to the highest standards and sited appropriately so as not to detract from the visual amenity of the area.

Development shall be prohibited where the development poses a significant or potential threat to coastal habitats or features, and/or where the development is likely to result in undesirable patterns of erosion or deposition elsewhere along the coast.

- 5.6.3. **Objective CPO 19.11:** To protect both public and private investment by prohibiting any new building or development (including caravans and temporary dwellings) within 100m of 'soft shorelines' i.e. shorelines that are prone to erosion, unless it can be objectively established based on the best scientific information at the time of the application, that the likelihood of erosion at a specific location is minimal taking into account, inter alia, any impacts.
- 5.6.4. In acknowledgement that not all coastal areas have the same characteristics or pressures, the county is divided onto coastal cells, with the subject site being located in Coastal Cell 8 – Wicklow Head/Kilpoole. This cell is described as being a mainly agricultural area which is under pressure for development, which as a result, is significantly developed with single rural houses and one larger scale development at Blainroe. It is a high amenity area, with a number of highly attractive and visited beaches including Magheramore.
- 5.6.5. **Objective CPO 19.23**
- (1) To preserve the open character of Wicklow Head.
 - (2) No development will be permitted that has an adverse impact on the environmental and ecological quality of the Magherabeg pNHA / cSAC or Vulnerable Aquifer designations in the area. The Planning Authority will have particular regard to the impact that all developments have on the integrity of a SAC, including development that is within a SAC and development that is not within a designated area, but which is likely to have an effect thereon.
 - (3) Development that is detrimental to the quality or amenity of heritage features will not be permitted, including views and prospects, archaeological features and protected trees/structures.
 - (4) To strictly control the further proliferation of sea outfalls for effluent discharge and in particular to prohibit short sea outfalls. All effluent discharges should be in compliance with the EU Bathing Water Directive.
 - (5) To facilitate the development of new tourist accommodation subject to the following controls:

(a) The development of new tourist accommodation shall be restricted to the existing development cluster at Blainroe or to existing developed sites.

(b) Permission will only be considered for new accommodation where the development forms part of a well-developed, integrated tourism and recreation development, which would add to the public amenity and enjoyment of the area and provides a significant public element (e.g. public car parking, playground / indoor playzone, swimming pool open to paying public etc).

(c) The development of any further static or touring caravan parks shall be prohibited; and

(d) The development of any further holiday homes shall be prohibited, other than a small-scale element of which may be allowable in an integrated development that provides a range of accommodation types;

(e) automated gates will not be permitted on any development.

(6) To strictly control the development of new entrances and access driveways on the R750 to those which can be proven to be necessary for either traffic safety reasons or the normal functioning of the landholding.

(7) To strictly control and limit the development of permanent rural housing to that shown to be strictly necessary and to require the highest standards of siting and design for any new dwelling and regard to environmental designations.

(8) To conserve the right of way from the Wicklow Town settlement boundary along the coastline to Brides Head and Lime Kiln Bay.

(9) To facilitate coastal protection works (natural, soft and hard engineered), to protect the amenity and ecological value of the coastline.

5.7. Built Heritage

5.7.1. A prehistoric site, described as a lithic scatter, is located approx. 340 m to the west of the appeal site boundary (WI031-044).

5.8. Development Management

5.8.1. Development management standards for tourism and recreation developments are outlined in Appendix 1 (Section 5) of the development plan. Such developments shall be assessed against the following criteria:

- The nature, scale and use of a development shall be appropriate to the character of the area and shall be visually sympathetic to its surroundings.
- The development shall not give rise to any significant adverse environmental impact.
- The development shall not be detrimental to the amenity of nearby properties.
- Traffic and parking – car parking shall be in accordance with development plan standards; safe vehicular access; adequate capacity of access roads; adequate provision for pedestrians, cyclists and public transport providers.
- The proposal shall be acceptable in terms of water supply, wastewater disposal and surface water drainage.
- All developments in rural areas must be capable of being screened and assimilated into the landscape.
- Developments should generate economic and social benefits for local people and enhance the well-being of host communities.

5.8.2. Applications for tourism and recreation developments in rural areas shall be accompanied by a justification of the need for the development, a masterplan, evaluation of compliance with the development plan, evidence of reuse of disused/ruinous buildings where appropriate.

5.8.3. Applications for overnight accommodation will be considered on the basis of the particular characteristics of the proposed scheme.

5.8.4. Car parking standards are set out in table 2.3 of Appendix 1. In locations where public transport and parking enforcement are not available, these standards shall be taken as minimum standards to ensure that haphazard unregulated car parking does not occur in the vicinity of the development.

5.8.5. The standard for a hotel (excl. function room) is 1 car parking space per bedroom. The requirement for bar, lounges and function rooms is listed separately as 5 parking spaces per 100 m² gross floor area.

5.9. Natural Heritage Designations

5.9.1. The site is adjoined to the south by Magherabeg Dunes pNHA.

5.10. EIA Screening

See Section 7.7. of this report and EIA screening forms in Appendix 1 and 2.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first-party appeal has been lodged against the Planning Authority's decision to refuse permission for the proposed development. The appeal submission includes a response to refusal reason no. 1 prepared by Enviroguide Consulting and Creatively Pacific Ltd. (applicant), a reason no. 2 as prepared by Brock McClure Planning & Development Consultants and Lawrence and Long Architects, a response to refusal reasons no. 3 and 4 as prepared by Enviroguide Consulting, a response to refusal reason no. 5 as prepared by The Tree File Consulting Arborists, a response to refusal reason no. 6 as prepared by Barrett Mahony Consulting Engineers, and a response to refusal reason no. 7 prepared by AGL Consulting Geotechnical Engineers. The submission also includes a letter of support from Brittas Bay Surf School, a Visual Impact Statement (June 2023) prepared by Lawrence and Long Architects, information document on BMS products related to the proposed wastewater treatment plant (WWTP) and information on package sewage treatment plant sizing and selection.

6.1.2. The grounds of appeal can be summarised as follows:

Refusal Reason No. 1

- During the design process, it was considered that limiting access to the beach over the winter months as a mitigation measure, when the increase in visitor numbers on foot of the proposed development would be most significant, would not be considerate of locals who use the beach at this time.
- The pathway to the southern areas of the SAC was ruled out from assessment in the NIS as these areas are under private ownership and

anyone accessing these lands would be trespassing. Signage to prohibit access is already in place.

- While a well-used path exists along the cliffside to these private lands, this theoretical pathway was excluded based on landownership. Through discussions between the applicant and the private landowner to the south, it has been agreed that no increase in current levels of trespassers would occur on foot of the proposed development.
- This will be achieved by clear communication of the limits of public and proposed development lands to guests, providing CCTV cameras along the boundaries of the proposed development and updated signage.
- To alleviate concerns that visitors to the proposed development may increase the current pressures on the southern areas of the SAC, the operator proposes to monitor the use of the cliffside path by CCTV. Where such use occurs, additional measures such as fencing across the path may be considered in consultation with NPWS and the respective landowners.
- The proposed mitigation to combat potential impacts on the QI identified as likely to be impacted by increased visitors was aimed at eliminating physical impacts most likely to occur from trampling.
- The tufa springs near the southern end of the site are most accessible to the public and these springs are more likely to be trodden over should visitors venture off the paths. The springs along the beach to the north are on steeper inclines and surrounded by well-trodden paths that are likely to keep visitors off the spring habitats.
- The main mitigation measure identified to limit physical damage to the sensitive habitats of the SAC within the accessible areas is to erect signage to the official public access points and the likely access points to Magheramore beach. Guests to the proposed development will also be shown / provided with leaflets and information to increase their awareness of the natural heritage of the site.
- While it is acknowledged that this will not deter all unwanted behaviours, it has been shown that non-locals and international visitors respond to signage better than locals that have historically been engaging in such behaviour. It is

assumed most guests would be non-locals, with a relatively high proportion of international visitors.

- The proposed mitigation included 2 years of monitoring the tufa springs identified in the Spring Survey of 2022 to identify any potential negative trends that may occur post-development. This is proposed to be increased to 5 years under the appeal submission.
- Should an increase in visitor numbers result in physical damage to these sensitive habitats, this would be evident within 5 years, before irreversible damage has occurred. Where potential increases in physical damage are detected, a modified boundary fence could be installed and / or potential exclusion fences around the more accessible springs within the SAC boundary in discussion with NPWS.
- The NIS mitigation measures to increase awareness of the sensitivity of the site habitats lacked detail. In-depth engagement with NPWS for detailed signage and leaflet design was considered a more appropriate task to be undertaken by planning condition. It is acknowledged that it was not clarified that the consultation outcomes may introduce further measures to mitigate impacts.
- Where any additional measures are recommended by NPWS or the Planning Authority to mitigate the impacts of increased visitor numbers, these will be fully implemented by the applicant to ensure no significant effects occur on the sensitive SAC habitats.
- It is also acknowledged that the NIS did not specify monitoring of visitor numbers or engagement with the signage as part of the mitigation approach. An addendum to the EclA has been submitted with the appeal to clarify the proposed approach.
- An amended WWTP proposal has been prepared which shows that a nitrate limit of 10mg/l can be achieved prior to discharge to the sand polishing filter.
- The WWTP and sand polishing filter are to be located entirely outside the zone of contribution (ZoC) to recharge the tufa springs. The polishing filter will provide a further tertiary stage of treatment to the effluent, prior to discharge to the existing overburden, which is up to 18m over bedrock.

- The geotechnical site investigation and geophysical survey provide no indication that discharge to the polishing filter would flow towards the ZoC. The lower ground floor of the proposed development will act as a physical barrier to flows from the sand polishing filter towards the ZoC in the upper, more permeable soils.
- The ZoC is conservatively estimated as extending to the full boundaries of the more permeable sandy slightly gravelly clay in the upper 4.1m. The actual ZoC to the tufa springs is likely to be smaller in extent within this area, reducing further the likelihood of interaction with the treated wastewater.
- Even in the absence of baseline data for water chemistry from the surveyed springs, the likelihood of impacts from increased nutrient levels as a result of the onsite WWTP is deemed negligible.
- The contractor's CEMP will ensure that appropriate environmental management practices are followed during the construction of the project to control and minimise associated environmental impacts so that construction activities will comply with all applicable environmental regulations.
- Standard best practice mitigation measures for the protection of surface and groundwater were considered sufficient to prevent contamination of groundwater and thus prevent impacts on the tufa springs within the adjacent areas of the SAC.
- The lower ground floor of the main building will be provided with a full perimeter sheet pile wall, which will extend into the impermeable clays, 4m+ below existing surface level. This will ensure that ground water within the ZoC of recharge to the springs will not be impacted by the excavation within the sheet piled wall or any associated dewatering during excavation and construction.
- Dewatering due to water seepage from the base of the excavate will be manageable using localised shallow sumps and pumps within the excavation which may be discharged to temporary soakaways located outside and away from the ZoC.
- Construction works will be carried out under supervision of a suitably qualified ecologist who will approve all mitigation measures relating to the protection of

SAC habitats prior to commencement of works and to implement further mitigation where required. All works within proximity of any of the tufa springs within the SAC will be supervised by an Ecological Clerk of Works (ECoW).

- The risk of vehicle oil / fuel leaks during normal operation is minimal. To mitigate against any potential impacts, staff will be trained in visual and odour identification of fuel / oil leaks and will carry out daily inspections of the car park. Should any signs of fuel leaks be present, the surface material and subsoil in the localised area shall be immediately contained and removed from the site for safe disposal at a licenced waste facility.
- Two tufa springs have formed along the south-eastern boundary within the soil horizon. These seepages are not bedrock groundwater fed but rather are fed from recent recharge water flowing through overburden deposits.
- The proposed development will have a typical water usage of approx. 34.16 m³/day. This yield can be met by an onsite well, with recharge meeting outflow demand. The depth to inflow and the presence of overlying clay sequence above the bedrock aquifer minimises the potential for any drawdown in water flow within the overburden and subsequent impact on flow to the tufa seepages adjacent to the southern area of the site.
- The tufa springs to the north of the site are not fed by groundwater emanating from bedrock but rather recent rainfall recharge through clayey overburden horizons. Abstraction from bedrock is unlikely to affect the hydrological regime of these springs. Mitigation measures will also ensure the abstraction does not impact on any recharge through the overburden near the ZoC, where the northern springs may also be fed locally by recharged groundwater within the overburden.
- Monitoring of the water abstraction rate could be undertaken to confirm that over abstraction is not carried out in dry summer periods. Two monitoring wells with level recorders could be installed in the upper margin of the ZoC for the southern tufa seepages.
- Water levels could be monitored during a baseline summer period. Should water levels fall below baseline, groundwater extraction could be reduced and supplemented from storage tanks or off-site supply.

- Additional inflows to the overburden will occur to the polishing filter from wastewater treatment on site. This filter is upgradient and outside of the ZoC for the southern tufa deposits. The basement of the proposed building will encourage discharge to ground in this area is directed south and westward of the recharge area.
- Any recharge to ground upgradient of the recharge area of the tufa seepages will have significant attenuation within the thick deposits of silt and clay present on the site, resulting in similar chemistry to that currently discharging naturally at the coast.
- It is acknowledged that the NIS lacked detail in the mitigation measures provided. An addendum to the EclA and NIS has been submitted with the appeal. Once the mitigation and monitoring measures are adhered to in full, the proposed development is not likely to result in significant impacts on the integrity of Magherabeg Dunes SAC, its qualifying interests (QI) or their conservation objectives. As such, the proposed development would not be contrary to the Habitats Directive.

Refusal Reason No. 2

- The proposal responds appropriately to the constraints and opportunities offered by the site whilst delivering a high-quality development that is well founded in planning policy.
- Refusal reason no. 2 is highly subjective and does not stand up to closer scrutiny of planning policy.
- The development is fully compliant with and supports development plan objective CPO 11.1 (location of tourism developments).
- The proposal has significant opportunities to capitalise on the potential of its locational asset, to grow tourism and enhance the development of outdoor pursuits in a manner that respects and protects the intrinsic character of the site and its surrounding.
- The proposal will boost the local employment offering, with 160 staff being employed over the course of the year.

- The existing surf school is an integral part of the development and will be managed and leased to a competent surf instruction school.
- Brittas Bay and Magheramore Surf School are limited in their present operation due to the lack of accommodation in the area and the lack of facilities to cater for groups. The surf school has identified that the proposed development will significantly improve their facility and patron experience and facilitate extended opening hours. As such, the proposed development is entirely dependent on its location adjacent to the beach and the activities of the existing surf school.
- The proposed development provides much sought after, unique accommodation and is ideally placed to benefit from easy access from Dublin and beyond. It will enhance visitor experience to increase dwell time in the county.
- Fáilte Ireland are fully supportive of the application and welcome the addition of high-quality visitor accommodation.
- The proposal is entirely dependent on its location in this rural setting and the scenic landscape is a vital part of its design.
- Careful consideration has been given to the successful integration of the scheme into the existing character and topography of the site to ensure no undue or overbearing impact on the surrounding environment.
- The proposal will have a positive impact on the County's tourism growth and will improve existing facilities for the benefit of the local community.
- The proposal is entirely consistent with objective CPO 11.4 which ensures this tourism development is sustainable, located in a rural area on which it is dependent and does not impact the environmental quality and amenity of the rural area.
- At present, there are no views to the sea from the R750 and the proposal will not interfere with prospects towards the sea from the coast road when travelling north or south.
- The subject proposal will barely be visible from the beach setting and will not be injurious to same.

- The proposed development does not appear visually out of character with the coast and does not interfere with the quality of the seascape in Cell 8 – Wicklow Head/Kilpoole.
- The scale and form of the buildings has been carefully considered relative to the site, ecology and landscape.
- The development provides for the enhancement of the current access pathway to the beach and will deliver a monitored, cleaner and safer beach as well as upgrading of the surf school facility, public w.c. and showers.
- The proposal is consistent with objectives CPO 17.35, 17.36, 19.8 and 19.23 of the development plan.
- The proposal will not restrict public access to the beach. It will restrict access to the cliffs to preserve the slope stability on the site and will conserve the character and quality of the seascape and coast.
- The proposal preserves the open character of Wicklow Head and is discrete and inconspicuous. The development appears to blend into the landscape from a distance and will have a negligible visual impact.
- The proposed development has been designed to ensure there will be no impact on views, prospects, archaeological features, protected trees and protected structures.
- The proposal will not compete with or detract from the existing cluster at Blainroe and provides a different tourist accommodation offering.
- The proposal will significantly increase the public amenity and enjoyment of the area and provides a significantly improved public offering. The improved surf school facility will include a shop. A first aid station is also proposed.
- The subject proposal forms part of an existing, well-developed tourism and recreation development of Brittas Bay and Magheramore Surf School for which there is an increasing and high demand.
- The barrier access system will not restrict emergency vehicle access and public pedestrian access will not be impeded at any time.

Refusal Reason No. 3

- A large part of the EcIA and mitigation design relied on the precautionary principle due to the extent of the survey effort carried out. To inform the final mitigation measures, further additional surveys will be carried out prior to the commencement of development including: (i) a further arboricultural survey of trees along the access laneway to identify least ecologically sensitive specimens for removal, (ii) bat activity surveys during the appropriate season, (iii) breeding bird surveys during the appropriate season, (iv) wintering bird surveys during the appropriate season.
- A review of the mitigation measures considering the results of these surveys will ensure the mitigation measures are proportionate and appropriate to the potential impacts of the proposed development and that no significant impacts on any of the considered species' groups will occur.

Reason No. 4

- The proposed development constitutes a sub-threshold development with respect to EIA under with Planning and Development Regulations, 2001 (as amended). A mandatory EIA is not required.
- Ecological assessments and supporting reports have considered the impact of the proposed development against ecological sensitivities, including European sites. Whilst the potential for likely significant effects cannot be ruled out at this stage, it is considered that potential likely significant effects can be reduced through good design and environment management measures.

Refusal Reason No. 5

- The tree population is considerable in a landscape context but is artificial and was planted as a garden landscape element. While several of the trees are mature, none appear to be old enough to be portrayed on early historical mapping.
- All existing trees and bushes grow in a severely confined context, limited by the hard and compacted laneway pavement and two ditches to the north and south of the laneway. The trees will have developed root systems that are restricted to the soft margins and embankments.

- The excavation of soft edges or embankments will be particularly harmful to the trees and will almost certainly necessitate their removal. Most of the new access road will be built on top of the existing lane.
- There are low-impact approaches for accommodating an increase in access road width. This could involve the use of “cellular confinement systems” which allow the supply of a road foundation above ground level while avoiding the requirement for excavation. It is hoped such a strategy will significantly reduce tree loss.
- The tree supporting embankment will unavoidably be affected at a small number of locations relating to the entrance and passing places. Preliminary analysis suggests that such losses may be confined to 19 of the 150 no. trees over the entire laneway length.
- Historical mapping indicates that the laneway has been in use since at least the early 1800s. The species composition along the access laneway is diverse with both native and non-native trees and shrubs present. There are no rare plants in the vegetation which was reviewed. Its values would be cultural, historical and noteworthy in terms of landscape.
- It is implausible to suppose that any trees date back to the 1800s. The majority of the largest and oldest trees on either alignment are expected to be 100 years old or less.
- It is expected that the hard compacted surface area of the laneway supports little root material and where it does, it would be of such small proportion to be inconsequential with regard to likely impacts.
- The adjoining softer ground should, wherever possible, be conserved and preserved in a manner to maintain its environmental use to the trees. A no-dig and load-spreading scenario is advised.
- Where embankment excavation is required, a small number of trees will unavoidably be advised for removal.

Refusal Reason No. 6

- The sightline drawing submitted with the planning application clearly identified achievable sightlines in accordance with TII standards. The curve of the road

to the southwest of the entrance may have led to a misunderstanding in the review and assessment of the drawing.

- Parking on the gravel verge to the north of the site entrance blocks the southern sightline from the entrance to the existing car park in the adjoining field. As such, there is an existing road safety risk due solely to the location of the gravel verge.
- To address this risk, it is suggested that parking along this verge should be prevented using bollards and the extension of the double yellow line.
- The removal of this parking will remove the incentive for illegal parking further along the road (currently a problem in summer months) and promote the use of the adjacent off-road car park.
- The proposed number of car parking spaces was established in line with the minimum standards of the development plan, which do not differentiate between staff and patrons. This will minimise traffic volumes on the access road to that necessary for the functional operation of the proposed development.
- The set-down / drop off area is adjacent to the proposed disabled parking spaces and does not block the spaces. The set-down / drop off area is not intended as a dedicated parking space.
- Fully permeable landscaped spaces are proposed throughout to maintain the existing method of stormwater management on the site. The surfacing will be considered in consultation with the Disability Access Consultant prior to the lodgement of a Disability Access Certificate, and if deemed necessary, will be amended in some areas.
- The proposal gravel surface of the access road is likely to promote low vehicle speeds. The carriageway width may benefit from being reduced or a dedicated portion provided in a contrasting finish for pedestrians. This matter could be dealt with at compliance stage.
- A rigid maintenance vehicle for the WWTP was used to establish the required minimum turning area and lane width provided.

- Firefighting water storage tanks are proposed in close proximity to the set down area in front of the main building. The tank size may be adjusted if required.
- The TRICS data used for establishing traffic volumes generated by the proposed development takes account of guests, staff and servicing requirements.
- The applicant confirms that access to the laneway will be provided to adjacent property owners. The provision of additional signage to notify drivers of pedestrians and crossing farm animals can be agreed at compliance stage.

Refusal Reason No. 7

- The ground at the base of the slope in this area is comprised of rock which is providing natural coastal erosion protection.
- Based on aerial views, there is no indication of coastal erosion over a 25-year period from 1995 – 2021.
- Between 2011-2013 and 2013-2018 there is evidence of a slope failure within the inlet at the south of the site. The slope along the coastline is over steepened and would be vulnerable to instability over time. This is a slope stability issue and is not related to coastal erosion. This has been addressed by placing the proposed structures 10 m - 20 m from the slope crest.
- In reviewing various historical maps of the area, it was found that the accuracy of the position of the coastline was not always reliable and there may be a margin of error in the survey accuracy.
- The rate of erosion at the site is low and is localised and would not affect the structures on the site during their 60-year design life.
- This shoreline would not be defined as a soft shoreline.
- The slopes along the proposed access road drop down to the beach. The ground at the base of the slope comprises beach sand, with evidence of some seepage. Two slippages were identified along this section of the slope by the GSI, which occurred after exceptional rainfall. This slope stability issue has been addressed by placing structures a distance of 10 m – 22 m from the slope crest.

- While there may be some erosion of the slope toe, the position of the crest of the slope has not changed in over 180 years.
- Potential coastal erosion could be accommodated in the buffer zone provided in the design.
- Climate change would likely increase the rate of erosion at the slope toe and the benefit of rock protection at the base of the slope at the southern end would be reduced. It would be very difficult to reliably quantify this.
- The aim of the proposed development is to maintain the existing environment on the site. No construction works are proposed for the base of the slope, there is no proposal to reprofile the slope or the slope crest or to place any structures in the buffer zone. Surface water on the site will be controlled by the proposed site drainage design.
- The development would not be expected to affect the long-term performance of the slope and any effect on the performance of the coastline due to climate change would be solely due to natural weather events.

6.2. Planning Authority Response

6.2.1. None received.

6.3. Observations

- 6.3.1. A total of 22 no. third party observations have been made on the application by: (1) Kevin Cavey (2) Anne Hudson (3) Lucy McGilligan (4) Laura and Tristan Bailey (5) Keep Ireland Open (6) Aoife Fogarty (7) Dervla Murphy (8) Judy Osborne (9) Rosie Lavan and Martin Dyar (10) Eoin McCarthy Deering (11) Rachel Loughrey (12) Anna McGrath Moffitt and Bill Moffitt (13) Ronan Kane (14) Simon Digby (15) D. Bailey (16) John and Anna Murphy (17) Ardmore Point Residents Group (18) Nina Kennedy (19) Alec Dunne (20) Kristyna Allesandrini (21) Margarete O'Meara Brennan and Des Brennan (22) Stephen Matthews TD.
- 6.3.2. All the observers are opposed to the proposed development. The additional issues which have been raised at this stage can be summarised as follows: (1) inaccurate landownership along foreshore, (2) appeal submission does not address refusal reasons, (3) removal of car parking on public road not under applicant's control, (4)

Brittas Bay Surf Club is located at Brittas Bay and uses the existing shipping container on the site for storage purposes when using Magheramore Beach, (5) planning status of the existing surf school on site, (6) insufficient waves to warrant a tourist resort centred around surfing, (7) existing self-catering cottages and a caravan park in the area, (8) submitted photographs are taken in extremely poor lighting and do not illustrate the visual impact of the development, (9) no proof of demand for accommodation on foot of the surf school activities, (10) Fáilte Ireland submission states that tourism developments must not negatively impact on sensitive natural environments, (11) closing beach to public access during seal pup season – only required on foot of increased visitor numbers associated with the proposed development, (12) no parking proposed for the surf school, (13) existing food trucks, parking, surf facilities and lifesaving club within 6.2 km of the site at Brittas Bay, (14) insufficient details on construction methods – slope stability/coastal erosion, (15) development should be amalgamated with existing facilities at Brittas Bay, (16) letter of support from surf school did not accompany the planning application, (17) conflict with Regional Spatial and Economic Strategy and National Planning Framework regarding green infrastructure and the Climate Action Plan, (18) CCTV cameras inappropriate at this location, (19) NIS – inappropriate to undertake additional surveys before development commences, (20) no provision for electric car charging, (21) material contravention of the development plan, (22) appeal process should not be used to address information gaps in the planning application materials, (23) the use of standard best practice mitigation measures is proposed in a CEMP, which has not yet been prepared, (24) hydrogeological assessment only considers 2 of 45 no. tufa springs.

6.3.3. An observation on the appeal was also received from the Dept. of Housing, Local Government and Heritage which can be summarised as follows:

(1) There is no statutory basis to involve the Department post consent to discuss mitigation measures with respect to potential impacts on the SAC. The responsibility for dealing with such matters, e.g. trampling on sensitive habitats, lies with the Board and should be resolved prior to consent being granted.

(2) Under Article 6(3) of the Habitats Directive, it is permissible for a planning permission to leave the applicant free to determine certain later parameters relating to the construction and operational phases, provided the Board is certain that the

development consent establishes conditions that are strict enough to guarantee that those parameters will not adversely affect the integrity of a European site.

(3) If the applicant proposes to apply mitigation measures not assessed by way of the original Appropriate Assessment (AA), then further screening, and if necessary, AA may be necessary to comply with Article 6 (3) of the Habitats Directive.

(4) It is the applicant's opinion that even in the absence of baseline data for water chemistry from the surveyed tufa springs, there is no indication that discharge to the sand polishing filter will flow into the tufa recharge area / ZoC and result in negative impacts due to increased nutrient input. However, the hydrogeology report supporting the applicant's submission fails to build a convincing hydrogeological conceptual model that links the ecological receptors and the supporting groundwater regime.

(5) There is no baseline data on water levels and discharge rates through the tufa springs to enable an adequate water balance calculation to back up some of the assumptions made in the report with regard to the potential for impacts.

(6) The scale of the proposed works and their proximity to sensitive ecological receptors makes negative ecological impacts highly likely. To suggest otherwise may require hydrogeological modelling of the groundwater and tufa spring system(s) to establish the ecohydrological linkages and the impacts from potential changes in the groundwater environment.

(7) Despite the appointment of an Ecologist and Ecological Clerk of Works to oversee the works and the proposed below ground perimeter sheet pile wall, the development still poses an element of environmental risk to the tufa springs. There also remains an element of risk in relation to the construction and operation of a number of accommodation pods which are proposed within the tufa zone of contribution, which has not been mentioned in the applicant's response.

(8) The low vulnerability described in the hydrogeological report refers to the deeper bedrock groundwater system.

(9) The source aquifers for the tufa springs are shallow sandy deposits which are extremely vulnerable to pollution and contamination. The proposed SUDS systems are standard for urban areas, but they need to be enhanced for an area such as this,

which is difficult to do without a more detailed understanding of the site's hydrogeology and ecohydrology.

(10) The applicant suggests the use of alternative water sources to the proposed well during dry-weather periods. However, there is no way of knowing if this will be carried out and if an adequate and responsive feedback system will be put in place to prompt the use of alternative water sources as required.

(11) The potential impact of the proposed development on altering shallow groundwater levels has not been effectively addressed.

(12) There are too many unknowns in relation to the hydrogeological conditions and regime supporting the tufa springs present on and adjacent to the site, to make confident assumptions on the risk of their contamination by the treated effluent discharge from the proposed development.

7.0 Assessment

7.1. Having considered the contents of the planning application and appeal, the submissions on file, having regard to relevant local planning policy, and having undertaken an inspection of the subject site and surrounding area, I consider that the key issues arising for assessment in this case include:

- Compliance with Development Plan Policy
- Impact on Hydrological Regime of the Site
- Site Access / Traffic Hazard
- Ecological Impact of the Proposed Development
- Tree Loss
- Requirement for Environmental Impact Assessment (EIA)
- Coastal Erosion
- Appropriate Assessment

7.1.1. Each of these issues is addressed in turn below.

7.2. Compliance with Development Plan Policy

- 7.2.1. Refusal reason no. 2 of the Planning Authority's decision states that the proposed development would contravene stated objectives of the county development plan in relation to tourism and recreation, landscape, views and prospects, marine spatial planning and coastal zone management. It was considered that the proposed development would set an undesirable precedent for similar developments in this sensitive landscape, would appear visually out of character with the coast and would interfere with the environmental quality and amenities of Coastal Cell 8.
- 7.2.2. In response, the applicant submits that this refusal reason is highly subjective and does not stand up to closer scrutiny of planning policy. The applicant contends that the proposed development is entirely dependent on its location adjacent to the beach and the activities of Brittas Bay and Magheramore Surf School. It is considered that the proposed development will not compete with the existing cluster at Blainroe and will provide a different tourist accommodation offering.
- 7.2.3. It is also submitted that the scenic landscape is a vital part of the development's design, which has been carefully considered to ensure it successfully integrates into the existing character and topography of the site. It is also submitted that the proposed development will be barely visible from the beach setting, that there are no views from the regional road towards the sea and that the proposed development would not appear visually out of character with the coast.
- 7.2.4. Objective CPO 11.3 of the development plan requires tourism and recreation related developments to locate within existing towns and villages, except where the nature of the activity renders this unfeasible or undesirable. Objective CPO 11.4 of the plan states that a tourism or recreational facility will only be considered in a rural area in cases where the product or activity is dependent on its location in a rural setting. Objective CPO 19.23 states that new tourist accommodation will be restricted to the existing development cluster at Blainroe or to existing developed sites. Permission for new accommodation will only be considered where the development would add to the public amenity and enjoyment of the area and provides a significant public element.
- 7.2.5. The appeal site comprises unzoned rural land located in a highly scenic, coastal area which has no existing water or wastewater services. There are no public transport services. There is no existing tourism development or cluster at this location. Blainroe is located approx. 1.5 km to the north. While the applicant submits

that the proposed development is entirely dependent on its location adjacent to the beach and the activities of the surf school, I consider this link to be tenuous. In my opinion, the current use of the site for storage purposes by the surf school is not sufficient to justify the scale or type of development proposed. The third-party observers highlight that the east coast of Ireland does not offer significant surfing opportunities and that the surf school has existing facilities at Brittas Bay Beach. Many of the observers also highlight that the public enjoyment of this area results from the natural beauty of the environment. Serious concerns are raised regarding the impact of the proposed development on the amenity and character of the area.

- 7.2.6. The site is located in a landscape area which is designated as a Coastal Area of Outstanding Natural Beauty (Area 2 (b): The Southern Coastline). The appeal submission includes a Visual Impact Statement in response to the Planning Authority's concerns regarding the visibility of the proposed development from Magheramore Beach and Wicklow Head. The development footprint has been positioned along the western site boundary, furthest from the beach and sea views, with the tallest part of the main building located on the southwestern area of the site. The assessment concludes that the comparative views clearly demonstrate a very low level of visual impact, particularly from Wicklow Head.
- 7.2.7. The accommodation pods located closest to the eastern (coastal) site boundary and the tallest corner of the main building will be visible from Magheramore beach. It is not possible to identify the proposed development in the submitted view of the site from Wicklow Head, with the headland on which it is located largely appearing in shade. The outline of the development has not been identified on the images, which together with their scale and darkness, makes it difficult to ascertain the level of impact from this location. I note that an observer to the appeal has also raised concerns regarding their quality. Notwithstanding the foregoing, the seaward elevation of the main building comprises a large amount of glazing, which together with the single-storey nature of the accommodation pods and the range of materials proposed, would likely not result in a significant visual impact in views of the site from Wicklow Head.
- 7.2.8. I agree with the Planning Authority's assessment of the design of the proposed development, which comprises an attractive, modern scheme, with a range of sympathetic external finishes and materials appropriate to a rural setting (see proposed 3D views - Drawing No. PP15 refers). However, notwithstanding the

foregoing, the proposed development will be visible from Magheramore beach, and in my opinion, would fundamentally diminish the character of this unique rural site in a Coastal Area of Outstanding Natural Beauty. As such, I consider the proposed development would be inappropriate at this location and would be contrary to Objective CPO 17.35 of the development plan which seeks to facilitate recreational amenities in this area in a manner which does not diminish its unique rural, scenic and recreational amenities. I recommend that planning permission be refused on this basis.

- 7.2.9. I also consider that the proposed development does not include a significant public element, with the proposed surf school, public showers and toilet facilities accounting for just 92 m² of a total floor area of 4,672 m². In my opinion, the proposed development seeks to capitalise on the scenic value of the area rather than being explicitly tied to this location. I agree with the Planning Authority that the proposed development would set an inappropriate precedent for similar developments on unzoned land in coastal locations. The subject site forms part of a sensitive coastal area of unique landscape and amenity value, and in my opinion, the development now proposed would fundamentally alter and have a detrimental impact on its character. As such, I consider that the proposed development would be contrary to Objective CPO 11.3, Objective CPO 11.4 and Objective 19.23 of the development plan and I recommend that planning permission should also be refused on this basis.

7.3. Impact on the Hydrological Regime of the Site

- 7.3.1. Refusal reason no. 1 of the Planning Authority's decision relates to the impact of the proposed development on Magherabeg Dunes SAC including anthropological impacts arising from increased year round visitors, the risk of groundwater contamination from the treatment of wastewater, the risk of groundwater contamination during the construction phase and the impact on groundwater levels due to long-term extraction from the proposed well and potential enrichment of subsurface waters from the WWTP percolation area.
- 7.3.2. Petrifying springs with tufa formation are located on the cliffside adjoining the eastern site boundary. Such springs rely on permanent irrigation, usually from upwelling groundwater sources or seepage sources, and as such, are sensitive to changes to the hydrological regime within the site. Petrifying spring surveys were undertaken by

the applicant in March and November 2022. The initial walkover survey in March recorded 45 springs / seepages with tufa formation, all of which are considered examples of the Annex 1 priority habitat. Six areas of springs / seepages without tufa were recorded which are not considered examples of this Annex 1 habitat but have the potential to form tufa and support petrifying springs species. Most springs appeared to be in good condition, with water flow / seepage present and at least three positive indicator species.

- 7.3.3. One spring showed significant signs of drying since detailed survey work was undertaken in 2013. The reason for the drying is unknown. It is noted that a new fence has been erected near this spring and there may have been other associated works. This spring also had very high nitrates and phosphates recorded from water samples taken in 2013.
- 7.3.4. A potential zone of influence in relation to the petrifying springs was subsequently developed, with 4 no. representative springs selected for detailed sampling and condition assessment. The conservation ranking for 3 no. springs was 'high' and for 1 no. spring was 'very high'. All springs were of favourable condition.
- 7.3.5. The planning application documentation also includes the results of hydrogeological investigations and well testing at the site. A large higher permeability sandy slightly gravelly clay layer was identified extending in a north-west / south-east direction across the site. This layer is located within the upper 4.1 m and potentially feeds the tufa springs adjacent to the southeastern site boundary. The remainder of the site is mainly covered with a low permeable clay with slight pockets of gravel and sand which are not intrinsically connected.
- 7.3.6. The results of the assessment note that 2 no. tufa springs have formed within the soil along the south-eastern boundary due to infiltrated water movement through the higher permeable layers. This water seeps out of the ground due to the break in topography along the cliff edge. It is submitted that this indicates the 2 no. tufa springs are locally recharged entities, saturated with surface water infiltrating through the superficial deposits and are not fed by bedrock groundwater. This conclusion is based on the following:
- A depth to bedrock of between 18 mBGL and 23.5 mBGL
 - Shallow bedrock was not encountered during the site investigation works or from the geophysical survey

- According to the available topographic survey, the 2 no. tufa springs are located approx. +17mOD which is well above the identified depth of bedrock.

- 7.3.7. Drawing No. PP16 (Proposed Development with Site Constraints) illustrates the extent of the recharge zone relative to the footprint of the proposed development. The lower ground floor of the main building directly adjoins the indicative recharge zone, while the ground floor partially extends over it at its northern and southern ends. Five of the individual pods are located directly over this zone, while an additional 4 no. directly adjoin it. A sheet pile wall is proposed around the lower ground floor of the building, extending to a depth of 4m+ below existing surface level. At ground floor level, specialist foundations and slab details are proposed to suspend the relevant areas of the main building and the aforementioned accommodation pods over the recharge area.
- 7.3.8. In responding to the Planning Authority's concerns in relation to the potential for groundwater contamination during the construction phase, the applicant submits that the site contractor will be required to prepare a CEMP for approval by the Planning Authority prior to the commencement of construction. Appropriate environmental management practices will be followed to control and minimise associated environmental impacts. Standard best practice mitigation measures for the protection of surface and groundwater are considered sufficient to prevent contamination of groundwater and impacts on the adjacent tufa springs.
- 7.3.9. The applicant also contends that the sheet perimeter wall will ensure that groundwater within the recharge zone will not be impacted by excavation works or any associated dewatering during excavation and construction.
- 7.3.10. While I acknowledge the applicant has sought to employ construction strategies to address risks to groundwater, I am not satisfied that such impacts can be avoided having regard to the proximity of the main building to the indicative recharge zone and the sensitivity of the tufa springs to alterations to the hydrological regime. Having regard to the extent of intervention proposed, particularly the excavations which will be required to construct the lower ground floor of the main building, I am not satisfied that sufficient information has been provided to illustrate how the sheet pile wall itself could be constructed without impacts arising to the recharge zone. I consider that additional information on the proposed construction methodology should have been provided to clarify this matter.

- Surface Water

7.3.11. The applicant's surface water drainage strategy is detailed in Section 2.0 of the Civil Engineering Infrastructure Report. In summary, external paved surfaces will be fully permeable to enable direct discharge of rainwater to ground. Each lodge will have a shallow gravel infiltration trench for direct discharge of roof rainwater to ground. Rainwater pipes on the main building will take all roof rainwater which will discharge to a shallow infiltration trench adjoining its eastern elevation. A perforated land drain will distribute water evenly along the length of the trench. Should the trench become saturated, stormwater will overflow to a manhole and will be drained by gravity through a buried stormwater pipe. It will flow to the eastern site boundary, where it will be discharged to a swale, which will provide further percolation to ground. I note the swale is located adjacent to a mapped seepage/spring (Site Drainage and Water Supply Layout Plan and Fig. 3.1 of the Petrifying Spring Survey and Assessment Report refers). In extreme events, water will overtop the swale and flow down the embankment.

7.3.12. The applicant contends that the proposed surface water drainage arrangements will mimic existing site conditions. The Environment Department of Wicklow County Council noted that the proposed SUDS measures should maintain the quantity of rainwater discharging on the site but may not maintain the method of even delivery due to the proposal for a number of shallow soakaways. It was considered that the application is not definitive if this could impact the tufa springs. Given that the installation of the surface water drainage infrastructure will fundamentally alter the manner in which surface water will be collected and processed within the site, I agree that uncertainty exists in relation to this matter.

- Wastewater Treatment

7.3.13. The groundwater vulnerability ranges from 'high' to 'extreme' from west to east across the site. It is proposed to treat wastewater via an onsite WWTP discharging to ground via a raised sand polishing filter. The treatment system adjoins the southern site boundary, and the polishing filter is proposed in the south-western corner of the site. Foul drainage will be collected from the main building and each pod and fall by gravity towards the treatment system. A grease trap will remove grease wastes from the restaurant and bar wastewater prior to onward flow to the WWTP. Wastewater

from the toilets in the surf school building will be pumped via a pump well and rising main and discharge to the gravity foul drainage system. Wastewater from the public showers will discharge directly to ground. The showers will be cold water only and the use of soap and shampoos will be prohibited. I have concerns that it would not be possible to enforce this restriction, which could result in impacts on the adjoining tufa habitat to the east. Wastewater from the pool will not discharge to the WWTP.

- 7.3.14. The Environment Department of Wicklow County Council notes that despite the high level of wastewater treatment proposed, it is unclear what assimilative capacity, or attenuation will occur in the shallow groundwater under the proposed wastewater infiltration area before it migrates to the tufa springs and coast. It is considered that a Tier 3 Hydrological Assessment would be required as per EPA Guidance on Authorisation of Discharges to Groundwater to assess the suitability of the site for a domestic-type wastewater discharge of the one proposed. It is also considered that specialist advice is required on whether the nutrient load would be sufficiently reduced by the time the groundwater feeds the tufa springs. I have reviewed the EPA's guidance which confirms that a Tier 3 Assessment should be undertaken for higher risk activities including inputs of greater than 20 m³/d of domestic wastewater. The volume of wastewater arising on foot of the proposed development is 27,760 l/day (27.76 m³).
- 7.3.15. As identified by the Department of Housing, Local Government and Heritage, the applicant's Site Characterisation Report states that the suitability of the site for the treatment and disposal of wastewater was assessed at 2 no. locations, with a report prepared for each. These locations are described as "location 1 to south of area" and "location 2 to north of area". A map of these locations does not appear to have been provided. The reports state that the water table is high at 900 mm – 1 m below ground, which means that the point of infiltration of the treated wastewater will be at existing ground level. There is a layer with relatively low permeability in location no. 2, which would impede the downward migration of effluent. As such, location no. 1 is identified as the preferred location, as the subsoil is more consistent.
- 7.3.16. Given the variation in the results between both locations and given the volume of treated effluent, the report notes that further testing to verify the suitability across the entire proposed percolation area will be carried out prior to the commencement of construction. Given the environmental sensitivities of the site, I consider that there should be no ambiguity in relation to this matter given that any subsequent

amendments which may be required in relation to the percolation area have the potential to impact on the QI of the SAC.

7.3.17. While a nitrate level of 11 mg/l was initially proposed to be achieved within the WWTP prior to discharge to the sand polishing filter, the appeal submission includes an amended proposal to achieve a reduced nitrate limit of 10 mg/l. In reviewing the targets and attributes for petrifying springs with tufa formation in the SAC, I note that the target in relation to nitrate levels is no increase from baseline nitrate level and less than 10 mg/l.

7.3.18. The appeal submission states that the WWTP and polishing filter are located entirely outside the ZoC to recharge the tufa springs. Based on geotechnical site investigations and the geophysical survey carried out, it is considered there is no indication that discharge to the polishing filter would flow towards the ZoC. It is also considered that the lower ground floor of the main building will act as a physical barrier to flows from the polishing filter towards the ZoC in the upper, more permeable soils. Even in the absence of baseline data for water chemistry from the surveyed springs, it is considered that the likelihood of impacts from increased nutrient levels as a result of the onsite WWTP is negligible. In my opinion, it is not possible to reach a conclusion of no impacts on foot of increased nutrient levels in the absence of baseline data on the water chemistry of the springs.

- Water Supply

7.3.19. Potable water supply to serve the development is proposed via an on-site well. The average daily water demand is identified as 34,160 l/day with a peak demand of 213,408 l/day (213.40 m³/day). The site investigations included the carrying out of 2 no. trial pumping wells to a max. depth of 90m below ground level (BGL) and 3 no. groundwater monitoring wells. Pumping tests were undertaken at test well TPW02, which is located at the south-western corner of the site. Monitoring well nos. 1 and 2 are located towards the eastern site boundary of the main body of the site (see Figs. 3.1 and 3.2 of Hydrogeological Assessment prepared by AWN). A Conceptual Site Model is provided in Figure 4.1.

7.3.20. The pumping well test results are included in Section 5.0 of the Hydrogeological Assessment. As identified by the Environment Department of the Planning Authority, the results relate to test well TWP02, where the WWTP percolation area is proposed. The location of the proposed well appears to more accurately reflect test well TWP01

(Site Drainage and Water Supply Layout Plan (Drawing Ref. C-1020 Rev. P02 refers). The applicant has not clarified if this is a typographical error or if test well TWP02 is representative of the proposed drinking water source (TWP01). This matter requires clarification.

7.3.21. The applicant submits that the assessment of groundwater abstraction data confirms that water requirements can be met by the onsite well, with recharging meeting outflow demands. Inflows of water within the pumping borehole only occurred over 40 m below land surface. The depth to inflow and the presence of overlying clay sequence above the bedrock aquifer minimises the potential for any drawdown in water flow within the overburden and subsequent impact on flow to the tufa seepages adjacent to the southern area of the site.

7.3.22. It is also submitted that the tufa springs habitat along the northern half of the site are not fed by groundwater emanating from bedrock but rather recent rainfall recharge through clayey overburden horizons. In addition, as groundwater inflows in bedrock were noted 40m below ground level, abstraction from bedrock is unlikely to affect the hydrological regime of these springs.

7.3.23. The following mitigation measures are proposed to ensure the abstraction does not impact on any recharge through the overburden near the ZoC, where the springs located slightly north of the ZoC may also be fed by locally recharged groundwater within the overburden:

- Monitoring of abstraction rate to confirm that over-abstraction is not carried out in dry summer periods.
- 2 no. monitoring wells with level recorders could be installed in the upper margin of the ZoC for the southern tufa seepages and baseline water levels monitored during a baseline summer period. Should water levels fall below these levels, groundwater abstraction could be reduced, and water supply would be supplemented from storage tanks off-site.
- Additional treated inflows (above normal) to the overburden will occur to the polishing filter as a result of wastewater treatment on site. The filter is upgradient and outside of the ZoC for the southern tufa deposits. Any recharge to ground upgradient of the recharge area of the tufa seepages will

have significant attenuation within the thick deposits of silt and clay present in the site resulting in similar chemistry to that currently discharging naturally at the coast.

- 7.3.24. The Environment Department of Wicklow County Council notes that considering the water supply for the site is proposed to be taken from a separate deeper confined aquifer to the tufa springs, a specialist assessment would be required to demonstrate that the additional flows of wastewater generated from abstracting deeper water, then discharging back to shallow ground water would not affect the existing hydrological regime feeding the tufa springs and the coastal slope stability. Given the sensitivity of the adjoining tufa springs to alterations to the hydrological regime within the site, I agree that uncertainty exists in relation to this matter. I also have concerns that the applicant's proposal to reduce groundwater abstraction during dry periods would be difficult to monitor/enforce.
- 7.3.25. In conclusion, I am not satisfied that the interventions which will undertaken on the site to provide water supply, wastewater and surface water drainage infrastructure would not impact on the tufa springs adjoining the eastern site boundary on foot of anthropogenic alterations to the hydrological regime and I recommend that planning permission be refused on this basis.
- 7.3.26. This matter is considered further in Section 8.0 of this report in relation to Appropriate Assessment.

7.4. Site Access / Traffic Hazard

- 7.4.1. Refusal reason no. 6 of the Planning Authority's decision states that the proposed development would endanger public safety by reason of serious traffic hazard as inadequate information has been submitted to show that sightline distances can be achieved, and that adequate car parking has been provided to accommodate staff. In response, the applicant submits that sightlines on either side of the vehicular access can be achieved in accordance with TII standards as demonstrated on Drawing No. 1017 Rev. P02 (Entrance Junction Visibility Splay). The applicant acknowledges that cars parked on the gravel verge on the northern side of the access block the northerly sightline and as such, there is an existing road safety risk. It is suggested that this parking be restricted using bollards, which will prevent illegal parking further along the road and promote the use of the adjacent, off-road car park. The number of car parking spaces was established in line with minimum development plan

standards, which the applicant submits will minimise traffic volumes to those necessary for the functional operation of the proposed development.

- 7.4.2. The applicant's sightline drawing demonstrates visibility splays of c. 155 m and c. 120 m in a northerly and southerly direction respectively. The applicant submits that a reduced southerly sightline is appropriate given the horizontal curve in the road, 3 sets of road markings and 1 no. sign advising traffic to slow on approach to the curve. A 70 km/per hour designed speed with associated 120 m 'y' visibility distance is considered appropriate. While the northerly sightline is obscured by cars parked on the adjoining gravel verge, I consider it would be unreasonable to refuse planning permission for the proposed development on this basis given that the removal of this informal parking area would facilitate the required sightline.
- 7.4.3. In considering the proposed quantum of car parking, I note that the off-street parking in the adjacent field appears to be an informal arrangement between the adjoining landowner and Wicklow County Council for the benefit of public access to the beach. Third party submissions identify that this arrangement has been put in place to alleviate problems of overcrowding and illegal parking during the summer months. As such, it appears that this area is not a formal public car park under the control of the Local Authority. The proposed development does not include any public car parking. In the event the adjoining landowner withdrew from this arrangement, and the parking on the gravel verge was removed, I note that no public parking would be available for those making day trips to the beach for surfing activities or otherwise.
- 7.4.4. The proposed development includes 49 no. car parking spaces. The applicant's Traffic and Transport Assessment states that this number has been determined based on the standards of the 2016-2022 Wicklow Development Plan. For the avoidance of doubt, I note these standards reflect those of the current 2022-2028 development plan. Hotels (excl. function rooms) require 1 no. parking space per bedroom, resulting in a requirement for 48 no. spaces. Bars, lounges and function rooms require 5 car parking spaces per 100 m² gross floor area.
- 7.4.5. The proposed development includes a bar/lounge at ground floor level and a function room at 1st floor level of the main building, which account for the majority of the floorspace at these levels. I note that the function room is described as an "event space" on the statutory notices. No parking provision has been proposed for these elements of the proposed development. By way of comparison, I note that the

bicycle parking requirement has been determined based on the hotel use and the bar/lounge use. While the applicant's Civil Engineering Infrastructure Report states that the bar and restaurant facilities will only be used by patrons of the facility, it is unclear if this statement explicitly refers to overnight patrons only. In any event, I consider that it would be difficult to control the use of the facility on that basis.

- 7.4.6. Notwithstanding the foregoing, only 1 no. car parking space remains to accommodate employees when guest parking is accounted for. I note that the wastewater discharge calculations include an allowance for 24 full time staff. The Economic and Financial Evaluation Report states that once the development is operational, a requirement for 160 no. part-time and full-time staff will arise.
- 7.4.7. Given the rural location of the site, it is reasonable to assume that the majority, if not all, guests and employees would travel to the site by car. Based on the foregoing, I consider that there is insufficient on-site car parking to serve the proposed development. In reaching this conclusion, I note that the development plan car parking standards should be interpreted as minimum standards in the context of this rural site. I recommend that planning permission be refused on this basis.

7.5. Ecological Impact of the Proposed Development

- 7.5.1. Refusal reason no. 3 of the Planning Authority's decision states that the submitted EclA has failed to demonstrate that the proposed development would not have a significant impact on locally important natural habitats, species or wildlife corridors. As such, it was considered that the proposed development would be contrary to Objectives CPO 17.7, CPO 17.8 and 17.12 of the development plan.
- 7.5.2. The Department of Housing, Local Government and Heritage has made a detailed submission on the application. The Department notes the extremely low level of ecological field survey that has been completed, including the undertaking of habitat, flora and fauna surveys on a single date and no dusk/nighttime bat surveys. It is noted that the date of the habitat surveys (16th September) would have missed the main vegetation flowering period and that the breeding bird scoping survey was carried out on a single date (5th August) outside the bird breeding period. These surveys are considered to give a snapshot impression of the site and miss seasonal variations e.g. wintering Curlew adjacent to the site. The Department considers the survey effort to be inadequate to assess biodiversity impacts given the nature, scale and location of the proposed development. The Department also notes that the

presence of an Annex 1 habitat (vegetated sea cliffs of the Atlantic and Baltic coasts) within the zone of influence of the development should have been recorded.

- 7.5.3. In response to this refusal reason, the applicant acknowledges that a large part of the EclA and mitigation design relied on the precautionary principle due to the extent of the survey carried out. The limitations of the assessment are identified in Section 4.7 of the EclA report, including the use of the site as an active film set at the time of the habitat, invasive species and fauna (excl. birds) surveys which could have limited typical faunal activity. No bat activity surveys were undertaken. It is also noted that small mammals are likely to have been missed during the walkover survey in the absence of dedicated focus on these species. Habitats adjacent to the site were also not mapped during the field surveys.
- 7.5.4. In considering the potential impacts to birds (section 6.1.4.3), the assessment states that the potentially present Curlew on the adjacent fields to the west of the site could be deterred from foraging in this area during the winter months due to noise disturbance and increases in human activity. Other notable bird species (migrant and native) that may be present in these lowland areas for winter foraging could also be deterred from using the site during the construction phase. In considering the impact to grey seal (section 6.1.4.5), it is noted that this species is very sensitive to any disturbances at their breeding sites which can result in females losing their maternal bond with their pups, leading to abandonment and an increase in already naturally high infant mortality rates.
- 7.5.5. In considering the impacts on coastal habitats (section 6.2.3) the EclA states that showers at the surf facility are intended as a rinse down facility, having only a cold-water output. The water from the showers will drain to ground and is likely to enter groundwater flows and outfall to the beach or to the sea. It is submitted that the cold-water nature of the showers will discourage the use of soap/shampoo, and that signage will be installed to discourage same. It is anticipated that no impacts will result to coastal habitats from the use of the showers.
- 7.5.6. Mitigation measure no. 11 relates to Environmental Awareness and Education and is proposed to mitigate potential adverse impacts on fauna and habitats from increased human activity at the site and at Magheramore Beach. These include:
- Provision of signage at common entry points to the beach which at a minimum should contain photographs of sensitive habitats and species, a short description

of their significance and a “do / don’t” section for each outlining how visitors can help to protect same.

- Inclusion of leaflets at hotel reception / individual pods with additional information on the coastal habitats at the beach and within the site.
- Inclusion of a timber post and rail fence on the cliffside boundary, with signage prohibiting entry at the most likely entry points.

7.5.7. The EclA recommends that the final mitigation measures be prepared in consultation with NPWS and the Planning Authority to ensure they are satisfactory to address the increases in anthropogenic pressures which will arise on foot of the proposed development.

7.5.8. The applicant’s appeal submission proposes the undertaking of additional surveys prior to the commencement of development including: (i) tree surveys along the access laneway to identify least ecologically sensitive specimens for removal; (ii) bat activity surveys during the appropriate season; (iii) breeding bird surveys during the appropriate season; (iv) wintering bird surveys during the appropriate season; (v) additional petrifying springs surveys to establish their baseline condition before works commence. The applicant submits that a review of the proposed mitigation on foot of these surveys will ensure the identified measures are proportionate and appropriate to the potential impacts of the proposed development and that no significant impacts on any of the considered species’ groups will occur.

7.5.9. The following additional mitigation measures are also required: (1) the installation of CCTV to monitor access to the cliffside path to the south of the site, with additional fencing installed in the event additional pressure from human activities is observed, (2) daily visual inspection of the beach during grey seal breeding season, with visitors to the beach encouraged to report sightings of pups, (3) in the event seal pups are present, access to the beach will be prohibited by signage and temporary fencing.

7.5.10. Additional monitoring of the appropriate implementation of the mitigation measures specific to the protection of the SAC by an Ecological Clerk of Works is also proposed during the construction phase. It is also proposed to install 2 no. monitoring wells in the upper margin of the ZoC for the southern tufa seepages to establish a baseline water level. It is also proposed to increase the annual spring surveys from 2 to 5 no. years post completion of the development.

- 7.5.11. Given the environmental sensitivities of this coastal site directly adjoining Magherabeg Dunes SAC, I agree that the applicant's approach to establishing the ecological baseline of the appeal site is substandard. I would query the rationale for undertaking site surveys when an active film set was present. In my opinion, the additional surveys which are proposed under the appeal submission should have been completed prior to application lodgement to address the uncertainty which now exists in relation to these matters. In my opinion, it would be inappropriate to grant permission for the proposed development, when the applicant has acknowledged that these additional surveys are required to clarify that the identified mitigation measures are sufficient to avoid impacts to sensitive habitats and species.
- 7.5.12. The application documents acknowledge that the proposed development would increase human activity in this area, especially in the winter months when existing visitor numbers are low. However, I have a particular concern regarding the identified environmental awareness and education mitigation measures which rely on appropriate guest behaviour within the surrounding environment. It is not unreasonable to conclude that such behaviour, including the use of soap / shampoo at the outdoor showers, would largely be outside of the applicant's control. This matter is considered further in Section 8.0 of this report in relation to Appropriate Assessment.
- 7.5.13. Having regard to the foregoing, I consider that the proposed development would be contrary to Objective CPO 17.12 and Objective CPO 17.14 of the development plan regarding the protection and enhancement of the local biodiversity and ecology of the site and surrounding area. Thus, I recommend that planning permission be refused on this basis.

7.6. Tree Loss

- 7.6.1. The Planning Authority considered the applicant had failed to justify the extent of tree removal along the access laneway and to assess the potential impact of this removal and the widening of the laneway on the ecological and biodiversity value of the 500 m treeline. As such, the proposed development was considered contrary to Objectives CPO 17.14 and CPO 17.18 of the development plan.
- 7.6.2. A tree survey report did not form part of the planning application documentation. The location of the proposed passing bays along the treelined laneway is identified on Drawing No. C-1010 Rev. P02 (Roads & Sustainable Surfaces Plan: Sheet 1 of 2)

prepared by the project engineers. Four bays of 12 m in length are proposed on alternating sides of the laneway, with the roadway width increasing from 3.7 m to 5.5 m at these locations. The first 15 m of the access road from the junction with the R750 will be increased to 15 m in width, sufficient to facilitate 2-way traffic and long enough to permit queuing of 3 cars in either direction.

- 7.6.3. The EclA states that the site provides suitable foraging habitat for 4 no. bat species (Brown Long-eared Bat, Lesser Noctule, Common Pipistrelle, Soprano Pipistrelle). The trees and hedgerows at the site offer “moderate” to “high” foraging and commuting potential due to their good connectivity to surrounding landscapes, which offer further high-quality foraging. The preliminary bat assessment has identified a number of mature trees along the access road with “low” to “moderate” bat roost potential. It is also likely that potential roost features higher up on the trees were missed during the ground-based assessment. An overall habitat suitability index of 25.56 (medium) is identified for bats (ranging from 1 – 46 for individual species). Section 6.1.4.3 of the EclA states that 5 -10 trees will require felling depending on the final location of the passing bays.
- 7.6.4. An arborist has prepared a response to this refusal reason as provided with the appeal submission. It states that the tree supporting embankment will unavoidably be affected at the site entrance and passing bays. A preliminary analysis suggests that such losses may be confined to 19 of the 150 no. trees over the entire laneway length, which conflicts with the number of trees identified for removal in the EclA. It is submitted that low impact approaches for accommodating an increase in road width will significantly reduce the extent of tree loss. In my opinion, construction vehicles travelling along the laneway would also likely impact the existing trees, although the response does not consider how such impacts might be mitigated.
- 7.6.5. The existing trees are not subject to a Tree Preservation Order (TPO). However, the treelined laneway is a highly attractive feature which adds to the tranquil character of the site. The trees extend from the embankments on either side towards the centre of the laneway, thus creating a sense of enclosure for pedestrians travelling towards the beach. The trees terminate at the eastern end of the laneway, with the site opening out thereafter and providing views towards the sea. In my opinion, a tree survey should have been undertaken in advance of planning application lodgement. This approach would have allowed a suitably qualified arborist to inform the appropriate extent of tree removal, in consultation with the project ecologist

concerning bats which may be using the laneway as a commuting, foraging and / or roosting corridor.

7.6.6. Thus, I consider that the proposed development would be contrary to Objective CPO 17.14 of the development plan regarding the protection and enhancement of biodiversity and ecological connectivity within the plan area and Objective CPO 17.20 which discourages development that requires the felling of mature trees of environmental and/or amenity value, even though they may not have a TPO in place. I recommend that planning permission be refused on this basis.

7.6.7. While the Planning Authority's refusal reason states that the proposed development would also be contrary to Objective CPO 17.18, I note that it seeks to promote the preservation of trees identified in Schedule 17.05 and Maps 17.05 and 17.05 A – H of the development plan. The existing site trees are not referenced on this schedule or maps, and as such, I consider it would be inappropriate to refuse permission on this basis.

7.7. Requirement for Environmental Impact Assessment (EIA)

7.7.1. Wicklow County Council considered that insufficient information had been submitted to demonstrate that the proposed development would not require an Environmental Impact Assessment having regard to the isolated, undeveloped nature and environmental sensitivities of the site and surrounding environs, in particular, the adjoining SAC and NHA and the biodiversity and ecosystems they support and the nature and scale of the proposed development (refusal reason no. 4 refers).

7.7.2. In reaching this conclusion, the Planning Authority had regard to Schedule 7 of the Planning and Development Regulations, 2001 (as amended), in particular: (i) the physical characteristics of the development, (ii) the location of the proposed development in terms of the environmental sensitivity of the geographical area; and (iii) the aspects of the environment likely to be affected by the proposed development.

7.7.3. Schedule 5, Part 2, Section 12 (c) provides that EIA is required for tourism and leisure developments which comprise holiday villages which would consist of more than 100 holiday homes outside built-up areas; hotel complexes outside built-up areas which would have an area of 20 hectares or more, or an accommodation capacity exceeding 300 bedrooms. The proposed development falls significantly

below these thresholds comprising a development of 4,672 m² with 48 no. accommodation pods on a stated site area of 2.966 ha.

- 7.7.4. In my opinion, the impact of the proposed development on the adjoining Magherabeg Dunes SAC is the key issue in this case, and this has been addressed in the applicant's AA screening report and NIS (as considered further in Section 8.0 of this report below). I note that the Planning Authority has refused permission for the proposed development based on its impact on this SAC.
- 7.7.5. Notwithstanding the environmental sensitivities of the lands adjoining the appeal site, having regard to the nature and scale of the proposed development, I consider that the submission of a subthreshold EIAR is not required in this case and as such, a refusal of planning permission on this basis is not warranted.

7.8. Coastal Erosion

- 7.8.1. The Planning Authority considered that insufficient information had been submitted to establish that the likelihood of erosion at this location is minimal and that the proposed development is in accordance with CPO 19.11 of the county development plan which seeks to protect public and private investment by prohibiting any new building or development within 100 m of soft shorelines.
- 7.8.2. In reaching this conclusion, the Planning Authority had regard to the applicant's Site Assessment Report (SAR), which concludes there has been little evidence of change along this section of the coastline over the past 25 years. The Planning Authority also had regard to the Geological Survey Ireland Spatial Resources website which states that 2 no. landscape events occurred at Magheramore Beach in 2016 in exceptional rainfall / storm events and that further assessment is required to establish the presence of a soft shoreline and the possible future erosion rate at this location.
- 7.8.3. The Department of Housing, Local Government and Heritage also considers that the planning application does not demonstrate that adequate consideration has been given to current or future erosion rates at Magheramore. Given the proximity of the development to the shore and the spatial limitations of the site, it is considered unclear how the natural recession of the coastline can be accommodated. The Department considers that further information is required regarding the measures that will be taken to ensure the development will not affect the natural alteration of

the coastline and its dependent coastal habitats in response to the effects of climate change (wave impacts and sea level rise).

- 7.8.4. The SAR includes a desktop study of current and historic map resources as part of the slope stability and coastal erosion assessments. A walkover survey of the site and onsite ground investigations were also undertaken. The report states that aerial views indicate that no significant coastal erosion has occurred since 1995. While there is some evidence of localised erosion and deposition from the 25 inch historical map, there is some ambiguity as to the findings from the 6 inch historical map and possibly the 25 inch map. The Irish Coastal Protection Strategy Study (ICPSS) was also consulted, which predicts coastal erosion to 2030 and 2050 based on the erosion rates of the previous 30 years. This study indicates there is no potential for erosion at the site. In the northern area of the site, the study has low confidence in the accuracy of the coastline in the year 2000 or in the accuracy of the rate of erosion over the past 30 years.
- 7.8.5. Section 10.3 of the SAR identifies options to ensure the stability of the site structures and access roads. The construction options are limited due to the site's proximity to the SAC. It states that there is insufficient information on the ground conditions on the site for detailed design of slope stabilisation measures. Site drainage is identified as a critical aspect that needs careful consideration to ensure slope stability, as soils that contain sand layers are particularly vulnerable to soil instability.
- 7.8.6. The report identifies 3 options to address slope stability and coastal erosion as follows:
- Position the structures outside of the IV:3 H (18 degrees) slope zone - this would require an exclusion zone of 15 m – 25 m from the slope crest.
 - Support the structures on piled foundations – the pods, access roads and car park could be placed within the IV:3H slope zone and supported on piles which would remove the load at the top of the slope, reducing the risk of slope instability.
 - Reinforce the existing slopes using soil nails – these works would require stabilisation of the slopes within the SAC area and involve drilling into the slope up to 15-20 m at an angle of 0-20 degrees to the horizontal.

7.8.7. In reviewing the site plan drawings, I note that option no. 1 above has been adopted in the scheme layout.

7.8.8. A response to this refusal reason has been prepared by AGL Consulting Engineers which can be summarised as follows:

- The ground at the base of the slope in this area comprises rock which is acting as natural coastal erosion protection to the slope.
- Based on aerial views, there is no indication of coastal erosion occurring between 1995 – 2021.
- Between 2011-2013 and 2013-2018 there is evidence of a slope failure within the inlet at the south of the site. The slope along the coastlines is over-steepened and would be vulnerable to slope instability over time. This is a slope stability issue and is not related to coastal erosion. This has been addressed by placing the proposed structures from 10 m to 20 m from the slope crest, which is outside of a buffer zone of 1V:3H from the slope toe.
- When reviewing various historical maps of the coast, it was found that the accuracy of the position of the coastline was not always reliable and there may be a margin of error in the survey accuracy. In any case, the rate of erosion at the site is considered to be low and localised and would not affect the structures on the site during their 60-year design life.
- Based on the foregoing, it is considered that this shoreline would not be defined as a soft shoreline.
- Two slippages have been identified by the GSI along the slope of the proposed access road which drops down to the beach. The base of the slope at this location comprises beach sand and there was seepage noted at the base of the slope. These occurred after “Exceptional Rainfall” and are described by the GSI as “beach slumps”. This slope stability issue has been addressed by placing the structures at 10 – 20 m from the slope crest.
- The 25 inch historical map shows that some coastal erosion may have occurred at the central and northern end of the site (7 – 9 m or 0.7 m per year). However, there may be inaccuracy in the position of the coastline as shown on the map.

- The 6 inch historical map would suggest that the slope toe may have been eroded by about 25 m over 180 years (approx. 0.14 m per year). The 25 inch map is considered more reliable as it is a more recent survey carried out to a larger scale and would be expected to have a higher resolution.
- While there may be some erosion at the toe slope, the position of the crest of the slope has not changed in over 180 years.
- Potential coastal erosion could be accommodated in the buffer zone provided in the design. If 0.1 m per year of coastal erosion of the slope toe occurred (the average of the 25 inch and 6 inch map rates) over the design life of 60 years, a 6 m land take would result which can be accommodated in the 10-22 m buffer zone.
- The aim of the development is to maintain the existing environment on the site. No construction works are proposed for the base of the slope, there is no proposal to re-profile the slope or the slope crest or to place any structures within the IV:3H buffer zone. Surface water will be controlled by the site drainage design.
- The development would not be expected to affect the long-term performance of the slopes and any effect on the performance of the coastline due to climate change would be solely due to natural weather events.

7.8.9. The applicant's SUDS strategy seeks to ensure the development does not negatively affect the surrounding watercourse system, existing surface water network, groundwater system or habitats within the SAC. The Environment Department of Wicklow County Council notes that the identified SUDS measures should maintain the quantity of water discharging on the site from rainwater but may not maintain the method of even delivery, due to the proposal for a number of shallow soakaways. It is considered that the application is not definitive if this could impact the tufa springs or slope stability, with many of the assumptions based on potential subsurface scenarios. I note that concerns were also raised in relation to additional wastewater discharges from the onsite treatment plant and the potential impact of these additional volumes on coastal slope stability.

7.8.10. The 100 m setback required under development plan Objective CPO 19.11 would prohibit development across most of the site adjoining Magheramore Beach. In

examining the submitted information in relation to this issue, I am satisfied that the rate of erosion adjoining the main body of the site (i.e. where the built structures are proposed) is not significant. In reaching this conclusion, I acknowledge the 2 no. slump events which occurred at the beach in 2016. I note from the submitted SAR that the ground at the base of these slope areas comprises beach sand. The ground at the base of the slope at the southern end of the site (where the buildings are proposed) comprises rock, which would assist in protecting the base of the slope from coastal erosion.

- 7.8.11. However, I also note the findings of the SAR which identify evidence of a slope failure within the inlet at the south of the site in front of the larger greenfield area (figure 5.1 refers). The size of the slope instability cannot be confirmed. Historical aerial views indicate that this failure occurred between the period of 2011-2013 and 2013-2018. The SAR provides no further information in relation to this finding.
- 7.8.12. Having regard to the foregoing, and to the concerns which have been raised by the Environment Department of Wicklow County Council regarding the impact of surface water and wastewater discharges on slope stability, I am not satisfied that this issue has been satisfactorily resolved in the submitted information. However, I am satisfied that the key issue arising here relates to slope stability rather than coastal erosion, and as such, it would be inappropriate to refuse permission for the proposed development based on non-compliance with Objective CPO 19.11 of the development plan.

8.0 Appropriate Assessment

8.1. Stage 1 – Appropriate Assessment Screening

- 8.1.1. In accordance with Section 177U (4) of the Planning and Development Act 2000 (as amended), and on the basis of objective information provided by the applicant, I conclude that the proposed development alone is likely to have a significant effect on the qualifying interests of Magherabeg Dunes SAC (site code: 001766) on foot of anthropological alterations to the hydrological regime on the site and physical impacts to protected habitats within the SAC. As such, I consider that this matter requires further detailed assessment under a Stage 2 Appropriate Assessment. I note that this conclusion reflects that of the applicant's AA screening report. Further assessment in-combination with other plans and projects is not required at this time.

8.2. Stage 2 - Appropriate Assessment

- 8.2.1. Magherabeg Dunes SAC adjoins the southern and eastern boundaries of the appeal site. The sand dune system shows most development stages, with embryonic, white dunes and grey fixed dunes all present. A line of petrifying springs with tufa formation occurs along the cliffs adjoining the site. The NPWS site synopsis notes that Magherabeg Dunes SAC is of conservation importance as it is a fine example of a dune system which is fairly intact and has a well-developed flora. It is noted that the lack of easy public access to the site has helped in preventing damage and erosion from amenity activities. The qualifying interests and conservation objectives for the site are set about in Table 8.1 below.

Magherabeg Dunes SAC (site code: 001766)	
Qualifying Interests	<p>Annual vegetation of drift lines [1210]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes)* [2130]</p> <p>Atlantic decalcified fixed dunes (<i>Calluno-Ulicetea</i>)* [2150]</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) * [7220]</p> <p>* priority habitat</p>
Conservation Objective(s)	<p>To maintain the favourable conservation condition of Annual vegetation of drift lines in Magherabeg Dunes SAC [1210]</p> <p>To maintain the favourable conservation condition of Embryonic shifting dunes in Magherabeg Dunes SAC [2110]</p> <p>To maintain the favourable conservation condition of Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) in Magherabeg Dunes SAC [2120]</p> <p>To restore the favourable conservation condition of Fixed coastal dunes with herbaceous vegetation (grey dunes)* in Magherabeg Dunes SAC [2130]</p>

	<p>To maintain the favourable conservation condition of Atlantic decalcified fixed dunes (Calluno-Ulicetea)* in Magherabeg Dunes SAC [2150]</p> <p>To restore the favourable conservation condition of Petrifying springs with tufa formation (Cratoneurion) in Magherabeg Dunes SAC [7220]</p>
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Table 8.1: Magherabeg Dunes SAC: Qualifying Interests & Conservation Objectives

- 8.2.2. The planning application includes a NIS (dated March 2023) which examines and assesses the potential adverse effects of the proposed development on Magherabeg Dunes SAC (site code: 001766). The NIS is informed by best practice guidance for such an assessment. It provides the results of field surveys, desktop and literature studies, including a review of NPWS databases and relevant conservation objectives. The report concludes the following:

“Once the avoidance and mitigation measures are implemented as proposed, the proposed development will not have an adverse effect on the integrity of the above European site, individually or in combination with other plan and projects. Where applicable, a suite of monitoring surveys [has] been proposed to confirm the efficacy of said measures in relation to ensuring no adverse impacts on the habitats of the Magherabeg Dunes SAC have occurred. As a result of the complete, precise and definitive findings of this NIS, it has been concluded, beyond reasonable scientific doubt, that the proposed development will have no significant adverse effects on the QIs, SCIs and on the integrity and extent of Magherabeg Dunes SAC (001766)”.

- 8.2.3. In refusing permission for the proposed development, the Planning Authority considered that insufficient evidence had been submitted to demonstrate that the proposed development would not adversely affect the integrity of this European site. The Dept. of Housing, Local Government and Heritage also considered that no certainty was provided in the NIS that specific avoidance measures will be employed to avoid significant adverse effects on the tufa spring habitats. The third parties and observers to the appeal have also raised concerns regarding the adequacy of the NIS, the extent of survey work undertaken to inform same and the potential detrimental impact of the proposed development on the SAC and sensitive habitats adjoining the site.

- 8.2.4. Having reviewed the documents submitted with the application and submissions on the application and appeal, I am not satisfied that a conclusion can be reached of no significant likely effects of the proposed development on the conservation objectives of Magherabeg Dunes SAC. In this regard I note that the applicant's appeal submission acknowledges that the NIS lacked detail in relation to the mitigation measures provided, with additional measures now proposed.
- 8.2.5. A summary of the key issues that have the potential to cause likely significant effects on this Natura 2000 site is provided in table 8.2 overleaf.

Magherabeg Dunes SAC (site code: 001766)

Summary of key issues that could give rise to significant effects:

Construction Phase:

- Uncontrolled release of silt, sediments and/or other pollutants to air, surface waterbodies and groundwater
- Generation of soil and construction wastes
- Increased dust, noise and / or vibration from construction activities
- Increased dust and air emissions from construction traffic
- Increased lighting from construction activity
- Increased human presence and activity

Operational Phase:

- Surface water drainage
- Foul water drainage
- Increased lighting
- Increased human presence and activity on the site

Conservation Objectives: See table 8.1 of this report and www.npws.ie

Summary of Appropriate Assessment

Qualifying Interest Feature	Conservation Objectives Targets and Attributes	Source-Path-Receptor Connection	Potential Adverse Effects	Mitigation Measures (see section 8.3.1 of this report for full details)
Annual vegetation of drift lines [1210]	<u>Maintain</u> favourable conservation condition in terms of habitat area and distribution, physical structure, vegetation structure and composition.	Yes. This habitat is likely to be present at Magheramore Beach to the east of the site. <u>Land Connection:</u> Increased human activity at the site will increase visitor numbers to beach.	<u>Construction Phase</u> None anticipated due to the distance between the main construction area and this habitat. <u>Operational Phase</u>	<u>Construction Phase</u> None required. <u>Operational Phase</u>

		<p><u>Weak Hydrological Connection:</u> In the event of heavy rainfall, surface water from the site may drain overland and reach this habitat.</p>	<p>Recreational activities at the beach put this habitat at risk of physical damage from trampling and unintentional removal.</p> <p>No significant impacts are anticipated on foot of fuel / oils spills from parked cars via overland surface water runoff or via groundwater.</p> <p>Use of shampoo / soap in public showers will be prohibited. No impacts anticipated.</p>	Educate visitors in relation to sensitive habitats.
<p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p>	<p><u>Maintain</u> favourable conservation condition in terms of habitat area and distribution, physical structure, vegetation structure and composition.</p>	<p>Yes. This habitat is likely to be present at Magheramore Beach to the east of the site.</p> <p><u>Land Connection:</u> Increased human activity at the site will increase visitor numbers to beach.</p> <p><u>Weak Hydrological Connection:</u> In the event of heavy rainfall, surface water from the site may drain overland and reach this habitat.</p>	<p><u>Construction Phase</u></p> <p>None anticipated due to the distance between the main construction area and this habitat.</p> <p><u>Operational Phase</u></p> <p>Increased visitor numbers increase the risk of physical damage, with marram grass particularly sensitive. Grass loss will expose sand to wind erosion.</p> <p>No significant impacts are anticipated on foot of fuel / oils spills from parked cars</p>	<p><u>Construction Phase</u></p> <p>None required.</p> <p><u>Operational Phase</u></p> <p>Educate visitors in relation to sensitive habitats.</p>

			via overland surface water runoff or via groundwater. Use of shampoo / soap in public showers will be prohibited. No impacts anticipated.	
Embryonic shifting dunes [2110]	<u>Maintain</u> favourable conservation condition in terms of habitat area and distribution, physical structure, vegetation structure and composition.	No. It is not considered likely that any impacts from the proposed development will reach this habitat via land/air, hydrological or hydrogeological means.	N/A	N/A
Fixed coastal dunes with herbaceous vegetation (grey dunes)* [2130]	<u>Restore</u> favourable conservation condition in terms of habitat area and distribution, physical structure, vegetation structure and composition.	No. It is not considered likely that any impacts from the proposed development will reach these habitats via land/air, hydrological or hydrogeological means.	N/A	N/A
Atlantic decalcified fixed dunes (Calluno-Ulicetea)* [2150]	<u>Maintain</u> favourable conservation condition in terms of habitat area and distribution, physical structure, vegetation structure and composition.	No. It is not considered likely that any impacts from the proposed development will reach these habitats via land/air, hydrological or hydrogeological means.	N/A	N/A
Petrifying springs with tufa formation (Cratoneurion) [7220]	<u>Restore</u> favourable conservation condition of Petrifying springs with tufa formation in terms of habitat area and distribution, hydrological regime, water quality, vegetation composition, vegetation structure and physical structure.	Yes. <u>Hydrological Connection:</u> In the event of heavy rainfall, surface water from the site may drain overland and reach this habitat. <u>Hydrogeological Connection:</u> A potential recharge zone was identified within the site for the Annex I springs	<u>Construction Phase</u> In the absence of mitigation, there is potential for significant impacts from dust and / or overland surface water runoff containing construction related pollutants. Potential for spread of negative indicator species (Nettle and Gorse) and 2 invasive species (Butterfly	<u>Construction Phase</u> Dust and surface water management. Biosecurity measures.

		<p>located near the south-east site corner. Water from the external showers will drain to ground and potentially be transferred via groundwater to the springs east of the parking area.</p> <p><u>Land / Air Connection:</u> Increased visitor numbers to the beach will have access to this habitat along the landward edge of the beach and along more accessible cliffs. Several springs are located in close proximity to the site and are susceptible to airborne pollutants.</p>	<p>Bush and Winter Heliotrope) which are present at the site.</p> <p><u>Operational Phase</u></p> <p>Increased risk of physical damage on foot of increased visitor numbers to the beach.</p> <p>Potential for spread of negative indicator species (Nettle and Gorse) and 2 invasive species (Butterfly Bush and Winter Heliotrope) which are present at the site by people and / or dogs if access is unrestricted.</p> <p>Discharges to ground containing pollutants or excess nutrients, especially near or on the mapped recharge zone, are likely to transfer via groundwater to the tufa springs in the south-east corner of the site.</p> <p>Excess overland surface water runoff could flush over representative areas of this habitat type along the cliffside and downgradient of the proposed development.</p> <p>In the absence of mitigation, potential for significant impacts on groundwater quality and resource of the tufa spring habitats on foot</p>	<p><u>Operational Phase</u></p> <p>Educate visitors in relation to sensitive habitats.</p> <p>Prevent direct access to the cliffside from the site.</p> <p>Prevention and mitigation measures to ensure no change in hydrological regime of nearby springs.</p> <p>Management and design measures to ensure no change in chemistry of overland surface water or groundwater from the site into nearby springs.</p>
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			of foul water generation at the site.	
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Table 8.2: Summary of Appropriate Assessment

8.2.6. The proposed **construction stage mitigation** measures can be summarised as follows:

(1) Dust control measures

- Use of dust screens, use of tarpaulins on haulage vehicles, bowser use during dry and windy periods, appropriate storage of stockpiled materials.

(2) Surface water and groundwater protection

- Lower ground floor of main building will be provided with a full perimeter sheet pile wall to ensure groundwater within the zone of recharge will not be impacted by excavation works.
- Oils, fuels and other chemicals stored in secure bunded hardstand area away from drainage ditches.
- Offsite refuelling and servicing of construction machinery.
- Response procedure to deal with accidental pollution events – spill kits, staff training.
- Concrete batching will take place off site, wash-down/wash-out of concrete trucks offsite, excess concrete disposed of off-site, monitoring of concrete pumping to ensure no accidental discharge and carried out in dry weather only.
- Wastewater from equipment, wheel or surface cleaning not allowed to discharge to drainage ditches, ground or down the cliffside.
- Waste from portable toilets and welfare facilities will be removed from site by a licenced waste disposal contractor.
- Debris and sediment collected in wheel washes disposed off-site at licensed facility.

(3) Biosecurity

- All soils / materials introduced to the site sourced from a certified invasive flora-free source.
- Tracked vehicles should not be used within the area of Butterfly Bush or Winter Heliotrope.

- Vehicles leaving the site and / or transporting infested soil / materials must be pressure-washed before being used for other work.
- Wash-down area for biosecurity will be located away from SAC boundary and mapped recharge area for tufa springs. Washdown water will not be allowed to flow downgradient to the cliffside or the beach.
- All vehicles containing invasive plant materials will be secured with tarpaulins.
- All chemicals used for the control of non-native species to be stored and used in a responsible manner.
- No soils containing Nettle or Gorse will be used within 50 m of any mapped petrifying springs.

(4) Environmental Awareness & Education

- Use of information signage at entry points to the beach outlining how visitors can help protect sensitive habitats.
- Provide leaflets at hotel reception and within individual lodges with additional information on the SAC designation.
- Incorporate a timber post and rail fence on the cliffside boundary with small signage prohibiting entry at most likely entry points.
- Final measures to be prepared in consultation with NPWS and the Planning Authority to ensure satisfactory measures have been taken to address the increased recreational pressures arising on foot of the proposed development.

(5) Maintaining Hydrological Regime and Water Chemistry

- Where the main building traverses the western edge of the recharge area of the tufa springs, it will be constructed on discrete piled foundations and suspended above the existing ground surface to ensure no negative impact on ground water flow path.
- SUDS measures have been chosen to minimise impact on current stormwater flows from the site to the SAC above and below ground.
- Installation of WWTP providing a very high effluent treatment standard prior to discharge to a sand polishing filter.

- Grease trap will remove grease wastes from the bar and restaurant prior to onward flow to the WWTP.
- Recommendation that laundry undertaken off-site to reduce phosphorous / detergent loads into the WWTP.
- Percolation area of final sand polishing filter located in southwest corner of site away from mapped recharge zone for nearby springs.
- Limited tree planting to avoid introducing vegetation with high water uptake which could limit surface water flowing to the springs. No fertilisers used in site management during the operational phase.

8.2.7. The following **construction stage monitoring measures** are proposed:

- Dust control measures reviewed weekly, and more often during dry weather, to ensure they remain effective.
- Cliffside will be checked for any potential dust impacts and control measures reviewed if impacts are noted.
- Surface water and groundwater protection measures will be checked weekly to ensure they remain effective and more often during moderate to heavy rainfall events as appropriate.

8.2.8. The following **operational stage monitoring measures** are recommended to ensure the implemented mitigation measures have been effective:

- Annual invasive species surveys during the optimal botanical survey season of the cliffside east of the individual pods for 2 consecutive years post completion of construction.
- Annual condition checks of the information signage to ensure legibility.
- Annual spring surveys during the optimal botanical survey season of the mapped petrifying springs for 2 consecutive years post completion of construction. If surveys show a negative trend in the status and condition of the springs related to changes in water chemistry or hydrological regime, the NPWS should be consulted to discuss potential follow up surveys to investigate and address the cause(s).

8.2.9. The applicant has proposed the following **additional mitigation measures** under the appeal submission:

- No additional trespasses will occur to the southern areas of the SAC (Magherabeg subsite on southern side of Ardmore Point and in separate ownership) – to be achieved by clear communication of the limits of public and proposed development lands to guests. CCTV cameras will be installed along the site boundaries to monitor the use of the cliffside path at this location. Where such use is identified, additional measures such as fencing across the path may be considered in consultation with NPWS and adjoining landowners.
- Post-development monitoring of tufa springs increased from 2 to 5 years. The applicant submits that should an increase in visitor numbers result in physical damage to sensitive habitats, it will be evident within 5 years of the operation of the development, before irreversible damage has occurred. Where potential increases in physical damage are detected, a modified boundary fence and/or potential exclusion fences may be considered to prohibit guest access to the cliff side along individual guest pods in consultation with NPWS.

8.2.10. In responding to refusal reason no. 1 of the Planning Authority's decision the applicant also submits that:

- The WWTP proposal has been amended to demonstrate a nitrate limit of 10mg/l would be achieved prior to discharge to the sand polishing filter. Even in the absence of baseline data for water chemistry from the surveyed springs, it is considered that the likelihood of impacts from increased nutrient levels as a result of the WWTP is negligible.
- The contractors CEMP will ensure that appropriate environmental practices are followed during the construction phase.
- Construction works will be carried out under the supervision of a suitably qualified ecologist who will approve all mitigation measures. All works within proximity of tufa springs will be supervised by an ECoW.
- Daily inspection of car park undertaken to identify fuel / oil leaks. Should any signs of leaks be present, the surface material and subsoil in the area shall be immediately contained and removed from the site for safe disposal at a licensed waste facility.

- A pump test was undertaken which included monitoring of water levels in 3 no. monitoring wells to assess the ZoC resulting from the water supply. Inflows of water within the pumping borehole only occurred over 40 m below land surface. The depth to inflow and the presence of overlying clay sequence above the bedrock aquifer minimises the potential for any drawdown in water flow within the overburden and subsequent impact on flow to the tufa seepages adjacent to the southern area of the site.
- The tufa springs habitat along the northern half of the site are not fed by groundwater emanating from bedrock but rather recent rainfall recharge through clayey overburden horizons.
- As groundwater inflows in bedrock were noted 40m below ground level, abstraction from bedrock is unlikely to affect the hydrological regime of these springs.
- Mitigation measures are proposed to ensure the abstraction does not impact on any recharge through the overburden near the ZoC, where the springs located slightly north of the ZoC may also be fed by locally recharged groundwater within the overburden.
- Additional treated inflows to the overburden will occur to the polishing filter as a result of wastewater treatment on site. The filter is upgradient and outside of the ZoC for the southern tufa deposits. Any recharge to ground upgradient of the recharge area of the tufa seepages will have significant attenuation within the thick deposits of silt and clay present in the site resulting in similar chemistry to that currently discharging naturally at the coast.

8.2.11. Petrifying Springs with tufa formation is a priority habitat under the Habitats Directive.

The conservation objective for this Qualifying Interest is to restore its favourable conservation condition, which is defined by the following attributes: habitat area, habitat distribution, hydrological regime (height and water table; water flow), water quality (nitrate and phosphate levels) and vegetation composition.

8.2.12. I share the concerns that have been raised by parties to the appeal regarding the effectiveness of the measures which are proposed to mitigate the potential for significant effects to arise to Magherabeg Dunes SAC on foot of the proposed development. As noted in the NPWS site synopsis, the lack of easy public access to

the site has assisted in preventing damage and erosion from amenity activities. The proposed development will permanently increase the number of visitors to this rural site, particularly in winter months, where current numbers are likely to be restricted to locals visiting the beach for recreational purposes. The presence of additional visitors on the site has the potential to result in physical damage to this QI (impacts on habitat area, habitat distribution and vegetation composition). Such additional pressures i.e. increased walking / trampling may also impact other QI's further south within the SAC.

- 8.2.13. I also share concerns identified by parties to the appeal regarding the proposed Environmental Awareness and Education Mitigation measures. I concur that these measures rely on appropriate guest behaviour regarding the adjoining sensitive habitats, and as such, are largely outside of the applicant's control. The NIS states that final measures will be prepared in consultation with NPWS to ensure satisfactory measures have been taken to address increased recreational pressures. In my opinion, the granting of permission in the absence of such certainty would be inappropriate.
- 8.2.14. The use of shampoo / soap in the public showers associated with the surf facility relies on appropriate user behaviour which is outside of the applicant's control. I also consider that the proposal for staff to monitor oil / fuel leaks within the car parking area does not stand up to scrutiny. The use of an appropriate engineering solution (i.e. petrol /oil interceptor) would be considered standard practice in relation to this issue. I note with reference to the applicant's Petrifying Spring Survey and Assessment Report that a number of springs are clustered to the east of the surfing facility and car parking area (Fig. 3.1 of the report refers).
- 8.2.15. While the applicant suggests that CCTV can be installed along the cliffside edge to monitor increased use of the paths adjoining the site, it is unclear the level at which such use would be deemed detrimental and how this would be measured. Existing visitor numbers do not appear to have been identified / estimated. While the applicant suggests that additional fencing may be installed across the path if required, I consider it is inappropriate to suggest the implementation of additional mitigation measures following the opening of the proposed development.
- 8.2.16. The applicant also suggests that post-development monitoring of the tufa springs be undertaken for a period of 5 years. If negative trends in the status and condition of

the springs related to changes in water chemistry or hydrological regime are identified, consultations will be undertaken with NPWS to address the cause(s). In my opinion, it is unclear how such negative trends may be reversed should they arise on foot of permanent alterations to the hydrological regime of the site.

8.2.17. The Department of Housing, Heritage and Local Government has also identified that the NIS must also consider the following in-combination impacts: (1) impacts on QI habitats of a longer tourist season and longer daily visitation period, (2) impacts of current recreational visitor use of the site in-combination with the proposed development; (3) existing and proposed car parking. I agree that these issues should have been considered to accurately establish the existing baseline, so that in turn, potential impacts arising on foot of the proposed development could be measured.

8.2.18. Thus, following an Appropriate Assessment, it has been ascertained that the proposed development alone, would adversely affect the integrity of Magherabeg Dunes SAC (site code: 001766) in view of the site's conservation objectives. This conclusion is based on: (1) alterations to the hydrological regime of the site and the potential for negative impacts to arise to qualifying interests of the SAC (petrifying springs with tufa formation) and (2) increased human activities at the site which has the potential to result in physical damage to SAC habitats. I recommend that planning permission be refused on this basis.

9.0 Recommendation

9.1. I recommend that planning permission be refused for the proposed development for the reasons and considerations set out hereunder.

10.0 Reasons and Considerations

10.1. The proposed development is located on unzoned land in a rural location which is designated as a Coastal Area of Outstanding Natural Beauty and where there is no existing tourism development or cluster. The requirement to locate the proposed development in this unique, scenic location has not been justified and the proposal does not contain a significant public element which would add to the public amenity and enjoyment of the area. As such, it is considered that the proposed development

would fundamentally diminish the character of this coastal site. Thus, the proposed development would be contrary to Objective CPO 11.3, Objective CPO 11.4, Objective 17.35 and Objective CPO 19.23 of the Wicklow County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

- 10.2. It is considered that the car parking provision for the proposed development, in particular the lack of sufficient on-site car parking spaces for employees, would be significantly deficient and would be inadequate to cater for the parking demand generated by the proposed development, thereby leading to conditions which would be prejudicial to public safety by reason of traffic hazard on the public road in the vicinity and which would tend to create serious traffic congestion.
- 10.3. It is considered that insufficient survey information has been undertaken as part of the Ecological Impact Assessment to demonstrate the impact of the proposed development on locally important natural habitats, species or wildlife corridors and to confirm that appropriate mitigation measures have been identified to ensure no significant impacts would arise on foot of the proposed development. As such, the proposed development would be contrary to Objective CPO 17.12 of the Wicklow County Development Plan 2022-2028 which seeks to protect non-designated sites from inappropriate development and would be contrary to Objective 17.14 of the county development plan which seeks to ensure that development proposals support the protection and enhancement of biodiversity and ecological connectivity within the plan area. As such, the proposed development would be contrary to the proper planning and sustainable development of the area.
- 10.4. It is considered that insufficient information has been submitted in relation to the proposed extent of tree removal along the proposed access laneway within the site to assess the potential impacts of this removal and the widening of the laneway on the ecological and biodiversity value of this corridor. As such, the proposed development would be contrary to Objective CPO 17.14 of the development plan regarding the protection and enhancement of biodiversity and ecological connectivity within the plan area and Objective CPO 17.20 which discourages development that requires the felling of mature trees of environmental and/or amenity value, even

though they may not have a TPO in place. Thus, the proposed development would be contrary to the proper planning and sustainable development of the area.

- 10.5. On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the Stage 2 Appropriate Assessment undertaken, the Board cannot be satisfied that the proposed development alone would not be likely to have significant effects on Magherabeg Dunes SAC (site no. 001766) in view of the site's conservation objectives, by reason of significant alterations to the hydrological regime on the site and the potential for resulting negative impacts to arise to qualifying interests of the SAC (petrifying springs with tufa formation) and the potential for negative impacts to habitats within the SAC on foot of increased human activity associated with the proposed development. In such circumstances, the Board is precluded from granting permission.

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

Louise Treacy
Senior Planning Inspector

17th January 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	317447-23		
Proposed Development Summary	Integrated Tourism/Leisure/Recreational Complex comprising a 2-storey over lower ground level building and 48 no. accommodation pods.		
Development Address	Magheramore, 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	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Schedule 5, Part 2, Section 12 (c)	
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	X		

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Tourism and leisure developments comprising holiday villages of more than 100 holiday homes outside built-up areas; hotel complexes outside built-up areas which would have an area of 20 ha or more, or an accommodation capacity exceeding 300 bedrooms. The proposed development falls significantly below these thresholds comprising a development of 4,672 m2 with 48 no. accommodation pods on a site of 2.966 ha.	Preliminary examination required (see Form 2)

5. Has Schedule 7A information been submitted?		
No	X	
Yes		

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	317447-23
Proposed Development Summary	Integrated Tourism/Leisure/Recreational Complex comprising a 2-storey over lower ground level building and 48 no. accommodation pods.
Development Address	Magheramore, Co. Wicklow
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The site is currently greenfield in nature. The proposed development has a total floor area of 4,672 m² and is not significant in size or scale. No demolition works are required. Excavation works are required in for the installation of site drainage infrastructure and the lower ground floor of the main building. The use of natural resources and the production of waste, pollution and nuisance and the risk of accidents is not</p>

	significant and would be typical of a project of this scale/nature.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The subject site adjoins Magherabeg Dunes SAC (site code: 001766). The proposed development has the potential to have likely significant effects on this European Site. This matter has been considered in the Stage 1 and Stage 2 Appropriate Assessments which have been undertaken in relation to this appeal case.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	The construction impacts which would arise on foot of the development reflect typical leisure/tourist developments of this nature, including increased construction traffic on local roads, with an associated increase in noise/emissions, disturbance (light, dust, noise) impacts to neighbouring residential properties and fauna species, generation of construction waste materials (soil, building materials, waste from staff facilities), surface water run-off and potential for fuel / oil leaks from construction equipment. Such impacts could

		<p>reasonably be controlled / managed through an agreed Construction and Environmental Management Plan.</p> <p>The proposed development would not result in likely significant effects on the environment during the operational stage.</p>
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)