



An  
Bord  
Pleanála

## Inspector's Report ABP-317657-23

<b>Development</b>	Construction of 4 mixed commercial units and 177 parking spaces with all associated site works. A Natura Impact Statement (NIS) was submitted with the application.
<b>Location</b>	Ballymakenny Road, Yellowbatter, Drogheda, Co. Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	221020
<b>Applicant</b>	Propchain Solutions Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Derek Moran.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	16 <sup>th</sup> October 2024.
<b>Inspector</b>	Lucy Roche

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## **1.0 Site Location and Description**

- 1.1. The appeal site is in the northern environs of Drogheda, on the western side of the Ballymakenny Road (L2275), in the townland of Yellowbatter. The northern environs of Drogheda have been identified, at National, Regional and Local Levels, for significant population and economic growth, this is evidenced by the extent of permitted, under construction and newly constructed residential development in the vicinity of the site and in the wider area. The development of these lands is being supported by new and improved infrastructure, most notably the planned Port Access Northern Cross Route (PANCR) that once completed will provide a direct link from the M1 Motorway to Drogheda Port. The Section of the PANCR, between the R132 (Dublin Road) and the Ballymakenny Road, serving the site, has been completed and was operational on the date of inspection.
- 1.2. The site itself has a stated area of 1.442ha and comprises an area of greenfield, parts of which appear to have been utilised to aid in the construction of the neighbouring lands to the west. The site is relatively level with a mature field boundary to the north. It is bound to the north by existing residential, to the east by the Ballymakenny Road and to the south and west by new residential development. Existing development in the wider area includes Saint Olivers National School and Ballymakenny College (and associated sports grounds) c250m to the southeast, on the opposite side of the Ballymakenny road. The appeal site is currently accessed via the entrance and estate road serving the new residential estate of Ellwood to the south. A new junction and link road with the Ballymakenny Road, to the south of the proposed development and shown partially within the red line site boundary, has been constructed but was not in operational on the date of inspection. The Ballymakenny Road itself has been subject to recent upgrade works, including the provision of pedestrian and cycle infrastructure.

## **2.0 Proposed Development**

- 2.1. Permission has been sought for four commercial units in a 2,309.9 sqm single storey building with a maximum height of 9.8m, as follows:

- Unit 1 - Retail Unit with gross floor area of 92.1 sqm and a net retail sales area of 81.8 sqm.
- Unit 2 - Retail Unit with a gross floor area of 98 sqm and a net sales area of 87 sqm.
- Unit 3 - Coffee Shop/Restaurant with a gross floor area of 121.8 sqm and a net area of 104.4sqm.
- Unit 4 - Convenience/Food Store Retail outlet with a gross floor area of 1,998 sqm and a net sales area of 1,257.5 sqm, including off-license, stores, staff facilities, toilets together with a service yard and delivery area.

- 2.2. 2 no. bin and 1 no. bike stores and 2 no. trolley bays: 98.5m gross floor area ancillary to the 4 no. commercial units.
- 2.3. The proposed development also includes for a total of 177 no. car parking spaces, bicycle parking spaces, a new service access off Ballymakenny Road, public open space with associated landscaping, boundary treatments, all associated access roads, footpaths and cycle facilities, foul and surface water drainage and public lighting.
- 2.4. Further information received on 19<sup>th</sup> June 2023 was deemed to be significant and was supported with revised notices. The information submitted included minor alterations to the red and blue line site boundaries to the north of the site. there was no change to the development as described in the documents lodged.
- 2.5. For ease of reference, Table 2.1 below provides a schedule of the key figures associated with the proposed development

Table 2.1 – Development figures	
<b>Site Area</b>	1.442ha
<b>Plot Ratio</b>	0.17
<b>Site Coverage</b>	16%
<b>Floor Area:</b>	
<u>Gross:</u>	2,408.4
<u>Individual Units</u>	
Retail Unit 1	92.1sqm (81.8sqm Net)

Retail Unit 2	98.0sqm (87.0sqm Net)
Retail Unit 3 (Café/Shop /Restaurant)	121.8sqm (104.0sqm Net)
Retail Unit 4 (Convenience/Food Store)	1998sqm
<u>Ancillary</u> (Bin store, trolley Bays and Staff bike Store)	98.1sqm
Car Parking	177spaces Including 9no disabled parking spaces (5%), 5no. family parking spaces and 36no. EV parking bays (20%)
Bicycle Parking	43 spaces including long stay communal staff storage and short term (visitor) bike storage

2.6. The application is accompanied by:

- Planning Compliance Report
- Natura Impact statement (NIS)
- Urban Design Statement and Housing Quality Assessment
- DMURS Statement of consistency
- Engineering Assessment Report and drawings
- Landscape Architecture – Design Rationale and Drawings
- Flood Risk Assessment
- Preliminary Construction Waste Mgt Plan
- Traffic and Transport Assessment
- Road Safety Audit (Stage 1)
- Ecological Impact Assessment Report
- Outdoor Lighting Report
- Archaeological Assessment

## 3.0 Planning Authority Decision

### 3.1. Decision

Following an initial request for further information Louth County Council decided to grant permission for the proposed development subject to 26no conditions.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- The initial report of the Case Planner has regard to the locational context and planning history of the site, to relevant planning policy and to the third-party submissions and interdepartmental reports received.
- Part 2 of the report considered EIA and AA. The report concludes that EIAR is not required. Following AA, the Case Planner concludes that the proposed development would not be likely to have a significant effect individually or in combination with other plans and projects on a European site.
- Part 3 of the report considered the proposed development under the following headings: Principle including Layout and Design; Retail Impact Assessment; Urban Design Scale and Layout; Public Realm and Landscaping; Residential Amenity; Traffic and Transportation, Parking Provision; Phasing; environment; Archaeology; Infrastructure; Irish Water and Development Contributions.
- The Case Planner concludes that the proposed development is acceptable in principle having regard to zoning and planning history of the site, and that it is in broad compliance with development plan policy and the Drogheda Northern Environs Masterplan 2006. The report concludes with a recommendation for further information on the issues raised by the Infrastructure Section in their report of January 2023 and on the issue of landownership as raised by one of the third parties.
- The final report of the Case Planner (July 2023) considers the further information received. The Case Planner is satisfied that the further information received adequately addresses the issues raised and that subject to compliance with conditions, the proposed development is appropriate at this location and would not seriously injure the visual or residential amenities of the area.
- The report concludes with a recommendation to grant.

### 3.2.2. Other Technical Reports

- Infrastructure: The initial report (Jan 2023) requests further information on Taking in Charge, compliance with DMURS and the design of the entrance. The final report (July 2023) recommends that permission be granted subject to condition.
- Environmental Compliance Section: No objection subject to condition. The recommended conditions relate to the construction phase of the development and the management of waste, pollution control, management of construction related noise and vibration.

### 3.2.3. Conditions

- The 26 conditions attached to the planning authority's grant of permission are generally standard for a development of the nature and scale proposed.

### 3.2.4. Prescribed Bodies:

DHLG&H DAU: The Department concurs with the findings of the Archaeological Assessment submitted with the application, that further Archaeological investigation is warranted and recommends the attachment of conditions in the event of a grant of permission.

## 3.3. Third Party Observations

The planning authority received two third-party submissions, one from Coakley O'Neill Town Planning on behalf of Derek Moran, the appellant in this case, and one from the adjoining landowner to the north. The issues raised in the appellants submission are similar to those set out in the grounds of appeal and summarised in section 6.1 below. The submission from the adjoining landowner raised no objection to the proposed development but did raise an issue regarding the boundary between their property and the proposed development site. This issue appears to have been resolved at further information stage.

## 4.0 659no Planning History

### 4.1. Appeal Site:

ABP Ref: PL15.228370 (LCC Ref: 07/1399): 10-year permission granted in 2009 for a mixed-use development on a 15.53ha site. The permitted development included neighbourhood centre providing retail units, a supermarket, office floor space, 2no creches etc and 659no. residential units. This development was subject to mandatory EIA.

The appropriate period for this permission was extended under LCC Ref:18/668 with an amended expiry date of 5<sup>th</sup> of April 2024.

ABP Ref: PL15.228370 (LCC Ref: 07/1399) was subject to a number of amendment applications including:

LCC Ref: 22/440 Permission granted (July 2022) for amendments LCC Ref: 07/1399 / ABP ref. PL15.228370 (as amended) facilitating the provision of an additional 2 bed apartment.

LCC Ref:21/1212 Permission granted (Nov 2021) for amendments to LCC Ref: 07/1399 (ABP Ref PL 15.228370) which resulted in a reduction in the overall number of residential units from 659 to 643 (a reduction of 16 residential units) along with alterations to public open spaces and landscaping details, provision of ESB substation, revised roads and services layout. The wording of condition 6 (Phasing) attached to planning ref. 071399 (ABP Ref PL 15228370) was also amended.

#### **4.2. Other:**

Lands in the vicinity of the appeal site have been subject to several applications in recent years some of which are still at application stage. These applications are primary residential in nature. The following is of note:

LCC Ref: 22/1017: - Lands to the immediate west of the appeal site.

Permission granted (2023) for residential development consisting of the construction of 20 no. 3 bed semi-detached 2 storey houses on a site of circa 0.987 hectares etc. NIS submitted. as observed during site inspection, development has commenced and appears to be nearing completion.



## 5.0 Policy Context

### 5.1. Development Plan

The Louth County Development Plan 2021-2027 (LCDP) is the operative plan for the area. Since its adoption on the 30<sup>th</sup> of September 2021, the LCDP has been updated to include for Variation No. 1 (adopted on 18th July 2022) and Variation No. 2 (adopted on 20th May 2024). Section 1.1 of the LCDP states that ‘when adopted, the County Development Plan will replace the Drogheda and Dundalk Development Plans, and Urban Area Plans / Local Area Plans will be prepared for these towns during the lifetime of this Plan’. It is noted as a point of clarity on the Council’s website that the LCDP 2021-2027 superseded the North Drogheda and Environs Local Area Plan.

#### **Zoning.**

The appeal site is subject to two zoning objectives under the LCDP as follows:

Zoning: A2 – New Residential – Phase 1

Objective: To provide for new residential neighbourhoods and supporting community facilities.

Guidance: This is the primary location for new residential neighbourhoods. Any development shall have a high-quality design and layout with an appropriate mix of housing and associated sustainable transport links including walking, cycling, and public transport to local services and facilities. The density of the development shall be reflective of the location of the lands, with higher densities required on more centrally located areas close to employment or services, or in strategic locations along public transport networks.

In addition to residential development, consideration will also be given to community facilities, retail services and uses that would support the creation of a sustainable neighbourhood; provided such development or uses are appropriate in scale and do not unduly interfere with the predominant residential land use

Zoning:        H1 Open Space

Objective:     To preserve, provide and improve recreational amenity and open space.

Guidance:     This zoning refers to areas of ‘active’ and ‘passive’ open space. Development that will improve the facilities or quality of the open space, amenity or recreational facilities, or contributes to the enjoyment of the space will be considered.

## **Core and Settlement Strategy**

The Development Plan (Table 2.4) sets out the settlement hierarchy for County Louth. Drogheda is designated as a ‘Regional Growth Centre’. ‘Regional Growth Centres are large towns with a high level of self-sustaining employment and services that act as regional economic drivers and play a significant role for a wide catchment area’.

### **Northern Environs of Drogheda:**

Section 2.13.6 refers to a portion of zoned land (c254ha) in the Northern Environs of Drogheda which is intended to ensure that the town has the capacity to deliver the population and economic growth envisaged in the NPF and RSES and will act as a counterbalance to the level of growth that has taken place in the Southern Environs of the town. This land bank will form part of a new UAP/LAP which is required to be prepared in conjunction with Meath County Council.

The roll out and delivery of residential development in the northern environs is closely linked to the phasing and delivery of the necessary social and physical infrastructure. This shall be informed by the phasing arrangements set out in the 2006 Masterplan or any subsequent Masterplan prepared for the area.

The Port Access Northern Cross Route (PANCR) is recognised as a critical piece of infrastructure in the Northern Environs that will ensure the comprehensive and cohesive development of this area while also facilitating the regeneration of key sites within the town centre.

## **Chapter 5 – Economy and Employment**

As per Table 5.3 County Louth Retail Hierarchy, the town centre of Drogheda is a Level 2 Centre, while the Neighbourhood Centres of Drogheda are identified as Level 4.

### **Louth Retail Strategy**

The Retail Strategy for (Louth Appendix 4, Volume 3) sets out the indicative potential for additional convenience, comparison and bulky household goods floorspace in Drogheda, Dundalk and Ardee. The potential floorspace capacity for these settlements has been informed by the settlement and retail hierarchy and projected population growth.

### **Policies Objectives of Note:**

#### Strategic Settlement Strategy Policy Objectives for Drogheda

- |       |  |
|-------|--|
| SS 1  | To support the role of Drogheda as a Regional Growth Centre and a driver of growth along the Dublin-Belfast Economic Corridor and to facilitate the continued expansion and growth of the town based on the principles of balanced, sustainable development that enables the creation of employment, supports economic investment, and creates an attractive living and working environment. |
| SS 11 | To support the coordinated development of the Northern Environs of Drogheda with the provision and delivery of sustainable social and community facilities and infrastructure in tandem with residential development.  |
| SS12: | To recognise the importance of the Port Access Northern Cross Route (PANCR) as a critical piece of enabling infrastructure in the strategic growth of Drogheda and to seek to secure funding to progress the delivery of this project as a priority during the life of the Plan.   |

#### Chapter 5 – Economy and Employment

- EE 64 To promote a healthy competitive retail environment within County Louth and to maintain the vitality and viability of the town and village centres and their role as primary retail core areas.
- EE 65: To encourage and support the re-use and revitalisation of vacant (and derelict) units and properties within town and village centres and assess change of use applications based on merit and overall contribution to the vitality of the town centre and the day and/or nighttime economy.
- EE 66 To ensure that applications for retail development comply with the provisions of the Louth Retail Strategy.
- EE 74 To promote the provision of local retail centres serving small, localised catchment populations in new residential areas, commensurate with locally generated needs.

## 5.2. Drogheda Northern Environs Masterplan

- 5.2.1. As per Section 3.5 and Table 13.1 of the LCDP - This Masterplan was agreed in 2006 and consists of an extensive land bank of c.254 hectares to the north of the town centre. The Masterplan provides for a wide range of uses including residential a, open space, employment, neighbourhood and community facilities. A linear park and sport and recreation facilities were also to be provided. The development of this Masterplan area is dependent on the construction of the Port Access Northern Cross Route (PANCR) and water services infrastructure.
- 5.2.2. The Key Objective of the Masterplan is the sustainable, phased development of c254 hectares of land forming 3, separate but integrated, residential neighbourhoods to provide for approximately 7,000 units. The Master plan envisages that the development of Neighbourhood 2 shall incorporate a centrally located Civic and Community Centre of c8,100sqm, including supermarket (Anchor) and smaller 'comparison shopping'.

### **5.3. Drogheda Joint Local Area Plan**

Louth County Council in partnership with Meath County Council are commencing the preparation of a Joint Local Area Plan for Drogheda. This Plan will set out a land use strategy for the future growth and sustainable development of Drogheda, focusing on issues including population and economic growth, delivery of housing and community facilities, regeneration of vacant and under-utilised lands, the potential impacts of climate change, environmental protection, and investment in transportation and water services infrastructure. A pre-draft Issues Paper was published with submissions received until the 27<sup>th</sup> of March 2024.

### **5.4. Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019-2031**

Drogheda is identified as a Regional Growth Centre within the Core Region of the Eastern and Midland Region. It was the fastest growing town in the most recent inter census period. The RSES aims to enable Drogheda to realise its potential to grow to city scale with a population of 50,000 by 2031 through the regeneration of the town centre, the compact and planned growth of its hinterland, and through enhancement of its role as a self-sustaining strategic employment centre on the Dublin-Belfast Economic Corridor. It is anticipated Drogheda will accommodate significant new investment in housing, transport and employment generating activity. The plan supports the development of zoned lands within the Northern environs of the town with the objective of creating compact mixed-use employment and residential communities in key locations and in proximity to established residential areas and transport hubs while balancing growth north and south of the town centre.

### **5.5. National Policy and Guidance**

In terms of National Policy and Guidance regard is had to:

- Project Ireland 2040 - National Planning Framework (2018)
- Retail Planning Guidelines (2012)

### **5.6. Natural Heritage Designations**

5.6.1. The proposed development site is not within nor is it adjacent to any European site. The closest European site to the proposed development is the River Boyne and River Blackwater SAC situated approximately 2.0 kilometers to the South. Other European designated sites in the area include the Boyne Estuary SPA and the Boyne Coast and Estuary SAC (also designated as an NHA) which are approximately 2.3km and 3.2 kilometers to the southeast respectively and the River Boyne and Blackwater SPA which is situated approximately 3.6 kilometers to the southwest. All other European sites are greater than 8km distant from the proposed development site.

The Boyne River Islands and King William's Glen and NHA's are located c3.2km and 4.6km to the southwest and west of the site, respectively.

## **5.7. EIA Screening**

5.7.1. The proposal is for a commercial development on zoned lands at Ballymakenny Road, Yellowbatter, Drogheda. The development is proposed in the context of the planned northern expansion of Drogheda through the development of new residential neighbourhoods. The site itself was previously subject to a grant of permission under ABP Ref: PL15.228370 (LCC Ref: 07/1399) which allowed for a mixed-use development which included, inter alia, 659no. residential units and a neighbourhood centre on a site area of 15.53ha site. This development was subject to mandatory EIA.

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

- (i) Construction of more than 500 dwelling units
- (iii) Construction of a shopping centre with a gross floor space exceeding 10,000 square metres.
- (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, "business district" means a

district within a city or town in which the predominant land use is retail or commercial use.)

- 5.7.3. In the Instance, an Environmental Impact Assessment Report (EIAR) would be mandatory under Class 10(b) if the proposed commercial development comprised a shopping centre exceeding 10,000sq.m or an urban development on an area greater than 20 hectares. The proposal comprises the construction of 2,309.9 sqm of commercial floor space on a site area of 1.442ha and is therefore significantly below the threshold for mandatory EIAR.
- 5.7.4. EIA is required for development proposals of a class specified in Part 1 or 2 of Schedule 5 that are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.
- 5.7.5. An EIAR has not been submitted. The documentation submitted with the application to the planning authority includes a document entitled 'Planning Compliance Report', which considers EIA under the heading 'Environmental Impact Assessment Report Screening'. In this section reference is made to Schedule 7A of the Planning and Development Regulations (as amended) which sets out the information that must be provided by the applicant or developer for the purpose of screening sub-threshold development for EIA. While reference is made in this section of the applicants 'Planning Compliance Report' to Schedule 7A information, the report does not contain the necessary information for a screening determination nor is this information contained within a separate 'EIA Screening Report'. Notwithstanding I am satisfied, having carried out a preliminary examination of the project that the need for EIA and be excluded. (see Completed form 2 attached).
- 5.7.6. This is not a large-scale project and there are no apparent characteristics or elements of the design that are likely to cause significant effects on the environment. The site is not designated for the protection of landscape or natural or cultural

heritage. While a possible hydrological connection does exist between the appeal site and designated Natura 2000 sites (via the Ushers Stream), I am satisfied that any matter arising can be adequately dealt with under the Habitats Directive (Appropriate Assessment) and I note that a Natural Impact Assessment (NIS) accompanies the application.

- 5.7.7. Therefore, having regard to the nature, size and location of the proposed development and to the criteria set out in schedule 7 of the regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

This is a third-party appeal lodged against the decision of Louth County Council to grant permission for a commercial development at Ballymakenny Road, Yellowbatter, Drogheda, Co. Louth. The issues raised in the appeal can be summarised under the following headings:

#### Material Contravention of the Zoning Objectives under the LCDP

- The proposal would materially contravene the site's residential and open space zoning objectives under the LCDP 2021-2027.
- The proposed commercial development is not acceptable on this residentially zoned site.
- The Planning Authority in their assessment of the application placed an over-reliance on the previous grant of permission, ABP Ref: PL15.228370 (as amended and extended). The proposed scheme departs materially from that permitted development (no childcare facilities proposed). Only 45no. residential units have been developed on foot of this permission.
- The proposal must be considered on its own merits.



- The subject site is not zoned for development under the North Drogheda Environs Master Plan 2006. It is zoned 'New Residential' and 'Open Space' under the LCDP. Large format retail stores are not listed as 'Permitted uses or uses open for consideration.
- The proposed development involves the construction of an access road on lands zoned for open space.

Non-compliance with the Retail Strategy for Louth:

- The proposal is contrary to the Louth Retail Strategy 2021-2027, which is a constituent part of the LCDP, and which requires that planning applications for significant retail development be accompanied by Retail Impact Assessments (RIAs) where, due to scale and/or location, the proposal may impact on the vitality and viability of town/village centres.
- In the absence of an RIA it cannot be concluded that the proposed development would not have a negative impact on Drogheda Town Centre.
- As detailed in the appellants third-party submission to the planning authority, there may be more appropriate locations for the proposed development.
- The proposed development does not comply with Policy Objective EE66.

Excessive Car Parking:

- The proposal will result in an over-reliance on private vehicle trips, which contravenes LCDP Core Strategic Objective 15. The site is not located on a bus route and is not well connected.
- The provision of surplus parking to facilitate future development on nearby sides is a truly unsound basis on which to grant permission. There is no guarantee that they these developments will be constructed.

**6.2. Applicant Response:**

The applicant's response to the issues raised in the third-party appeal can be summarised as follows:

Material Contravention of the Zoning Objectives under the LCDP

- The appellant has mischaracterised the reliance placed on the extent permission (ABP Ref: PL15.228370) by the applicant. While the existence of an extent permission is a relevant consideration for the Board, the proposed development has been and is justified on its own merits.
- The applicant has progressed a concurrent residential application LCC Ref: 22/1017 and it is their intention to continue to develop the wider land holding.
- There are small areas of land zoned H1 Open Space within the redline site boundary however the proposed scheme provides for publicly accessible open space on those areas. The access road is not on H1 land (Figure 4.1).
- The provision of a neighbourhood retail development is supported by the guidance under the A2 zoning objective.
- The development represents an appropriate scale of development to serve the neighbourhood retail needs of this rapidly developing area.

Non-compliance with the Retail Strategy for Louth:

- The subject site has been identified as a location for neighbourhood level retail and commercial uses since the publication of the 2006 Masterplan, referenced in the current LCDP.
- The Retail Strategy acknowledges that capacity exists to deliver additional convenience and comparison retail development in Drogheda.
- The proposed development accords with Policy Objective EE74.
- A Retail Impact Assessment has now been submitted. This document concludes that there is sufficient existing and future capacity in the catchment area to support the proposed scheme.
- The site is identified as a location for a neighbourhood centre under the 2006 Masterplan and is located within Phase one under the provisions of the Masterplan.
- Regarding compliance with Policy Objective EE65 – the proposed development is intended to serve a significant new residential neighbourhood,

which is not currently served by any other retail offer. There are no vacant or derelict properties that might accommodate the proposed development.

Excessive Car Parking:

- The proposal would provide a surplus of 61no car parking spaces.
- As set out in the Traffic and Transport Assessment submitted with the application, these additional car parking spaces will facilitate the development of a shared workspace building and a mixed use (commercial and residential) building named Block A, which are to be provided under different applications, and which will generate a demand for c103no parking spaces.
- The applicant is willing to accept a condition to require 61no. spaces within the proposed car parking area not be constructed until such time as they are required to serve the adjacent development and that the area be subject to temporary landscaping.

Alternative Locations:

- In respect of the alternative locations suggested by the Appellant in their submission to the Planning authority:
  - The large parcel of 'B2' zoned land referred to is in fact zoned I1 (Tourism and Leisure). Notwithstanding, these lands would not be suitable to meet the retail needs of the swiftly developing northern environs.
  - There is no capacity in the Aston Village neighbourhood centre.

### 6.3. Planning Authority Response:

The planning authority's response to the third-party grounds of appeal can be summarised as follows:

- The subject site is zoned 'A2 New Residential Phase 1' with the objective to provide for new residential neighbourhoods and supporting community facilities (their emphasis).
- Section 2.13.6 of the LCDP in relation to the Northern Environs of Drogheda states that necessary social, community and recreational infrastructure should

be provided along with residential development as per the 2006 Masterplan. This proposal has regard to that masterplan.

- The proposed development is critical to provide facilities to support the extensive new residential communities and neighbourhoods at this location.
- This proposal will essentially replace the commercial neighbourhood centre elements of the previous permission LCC Ref: 07/1399 (as amended) and will result in an overall reduction in retail floor space at the site.
- It is considered that this commercial neighbourhood centre type proposal is acceptable at this location and will not detrimentally impact on the retail services of the core area of the town of Drogheda. Therefore, this proposal is not considered to contravene the Louth Retail Strategy.
- It is noted that the surplus car parking spaces are to be used to facilitate future development. It is further noted that the application includes for the provision of 36no. EV charging points and 43no cycle parking spaces, exceeding the minimum standards set out in the plan.
- The Board is respectfully requested to uphold the decision of the Planning Authority to grant permission for the proposed development.

#### **6.4. Observations**

- None

#### **6.5. Further Responses**

A further submission was received from the third-party Appellant on the 12<sup>th</sup> of September 2023. The issues raised can be summarised as follows:

- The Appellant has no objection to the provision of the small retail / commercial units proposed however, the development of a supermarket is inappropriate for the location as it would be contrary to the zoning objective.
- The 2006 Masterplan does not envisage a neighbourhood centre in Neighbourhood 2 but a much larger Civic and Commercial Centre, which has not been delivered. The applicant's description of the subject site as having

been identified for the development of a 'neighbourhood centre' is an inaccurate interpretation of the Masterplan and therefore does not serve as a sound basis for disregarding the site's statutory land use zoning objectives contained in the LCDP.

- It is accepted that the proposed layout provides for public realm development / public footpaths on H1 Open Space zoned land within the site; however, it is unclear if the development of these lands as proposed would accord with the Landscape and Open Space Objectives set out in the Masterplan.
- The submitted Retail Impact Assessment is flawed and does not provide for a sound basis on which to assess the retail impact of the proposed development.
- The applicant's decision to omit the smaller retail unit from the RIA has not been adequately justified.
- Regarding the sequential approach, the subject site is not zoned for a Neighbourhood centre, nor it is identified or designated as a neighbourhood centre.
- The site is not suitable for a large convenience store. There are other more centrally located sites that could accommodate the scale of retail development proposed.
- The catchment area identified in section 6 of the RIS is excessively limited.
- The applicant's proposal in respect of the surplus 61 no parking spaces would amount to the ad-hoc, inefficient and inappropriate development of lands zoned for residential use.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, (including the submissions received in relation to the appeal), and inspected the site, and having regard to relevant local/regional/national policies and guidance, and to the planning history of the site, I consider that the main issues in this appeal are as follows:

- The principle of retail development at this location
- Compliance with the Louth Retail Strategy

- Car parking
- Appropriate Assessment

I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. Accordingly, the issues for consideration are addressed below.

## 7.2. Principle of Retail Development

7.2.1. The appeal site lies within the northern environs of Drogheda an area targeted for significant population and economic growth. At the time the appeal was lodged, the site and wider landholding had the benefit of planning permission under ABP Ref: PL15.228370 (LCC Ref: 07/1399) for a mixed-use development that included for approximately 659no residential units and a new neighbourhood centre. This development was not fully realised with only a small percentage of residential units constructed (residential units in Ellwood to the south of the appeal site). The appeal site and wider land holding is now the subject of several smaller permitted / proposed developments. The proposed development, the subject of this appeal, is proposed on lands associated with the previously permitted Neighbourhood Centre and comprises four commercial units as follows:

- Unit 1 - Retail Unit with gross floor area of 92.1 sqm and a net retail sales area of 81.8 sqm.
- Unit 2 - Retail Unit with a gross floor area of 98 sqm and a net sales area of 87 sqm.
- Unit 3 - Coffee Shop/Restaurant with a gross floor area of 121.8 sqm and a net area of 104.4sqm.
- Unit 4 - Convenience/Food Store Retail outlet with a gross floor area of 1,998 sqm and a net sales area of 1,257.5 sqm.

7.2.2. The appeal site encompasses two land use zoning objectives, namely '*A2 – New Residential – Phase 1*' (A2 New Residential) with an objective to provide for new residential neighbourhoods and supporting community facilities and '*H1 – Open space*' with an objective to preserve, provide and improve recreational amenity and open space. The guidance for the '*H1 Open Space*' clarifies that this zoning refers to areas of both '*active*' and '*passive*' open space.

### H1 Open space

- 7.2.3. The primary zoning for the site is 'A2 New Residential'. The 'H1 Open Space' zoned land within the appeal site comprises only two narrow strips of land at the southern end of the site, on either side of the new link road. These narrow strips of open space form part of a much wider expanse of H1 zoned land that is to be developed as a linear park across the northern environs of Drogheda.
- 7.2.4. Following consideration of the plans submitted, I am satisfied that 'H1 Open Space' lands within the appeal site are to be provided as publicly accessible open space, incorporating hard and soft landscaping and pedestrian facilities in a manner that would accord with the zoning objective. I am further satisfied that design and layout out of these spaces, as presented, would contribute positively to the public realm in this area while also providing appropriate linkages to the wider 'H1 Open space' lands to the east and west.

### A2- Residential

- 7.2.5. As previously stated, the primary zoning for these lands is 'A2- New Residential' with an objective *to provide for new residential neighbourhoods and supporting community facilities*. The Guidance for the A2 zoning as set out in the LCDP, states that *"In addition to residential development, consideration will also be given to community facilities, **retail services and uses** that would support the creation of a sustainable neighbourhood; provided such development or uses are appropriate in scale and do not unduly interfere with the predominant residential land use"*. (emphasis added). On this basis, I am satisfied that the A2 zoning supports, in principle, the provision of retail services and uses.
- 7.2.6. The planning authority in their assessment of the application had regard to the A2 zoning and the planning history of the site and were satisfied that the principle of the proposed commercial development was acceptable. However, the Appellant considers that the planning authority in their assessment and in their decision to grant permission placed an over reliance on the previous grant of permission, noting that the scheme now proposed is materially different from that permitted and that the quantum of residential development envisaged for the area has not materialised. The Appellant contends that the proposed scheme should be considered on its own merits, having regard to the provisions of the current development plan and the

residential zoning for the site, which they argue does not support large format retail stores. In light of the concerns raised, I deem it appropriate to consider the proposed commercial scheme and its appropriateness at this location in more detail.

- 7.2.7. The LCDP provides a list of use classes that are 'Generally Permitted' or 'Open for Consideration' within each land use zoning category. It is stated in Section 13.21.4 of the Plan that the use classes listed are intended as general guidance and are not exhaustive.
- 7.2.8. Under the A2 zoning, Coffee Shop/Tea Room, Restaurant, and Shop  $\leq 200\text{m}^2$  are all uses listed as being 'open for consideration'. Uses that are 'Open for Consideration' may be acceptable to the planning authority where *"...it is satisfied that the proposed development would be compatible with the overall policy objectives for the zoning category, would not have undesirable effects on the 'generally permitted uses', or conflict with other aspects of the Plan, and would otherwise be consistent with the proper planning and sustainable development of the area.* I am satisfied that proposed units 1, 2 and 3 as outlined above, would meet with these criteria and I note that neither the planning authority nor the Appellant raised an objection to the provision of such units at this location.
- 7.2.9. Retail units  $>200\text{sqm}$  are not listed as a use class that is 'Generally Permitted' or 'Open for Consideration' within the A2 zone. As per Section 13.21.2.3 of the LCDP, *"...proposals for such uses will be considered on their individual merits taking account of surrounding land uses, the compatibility of the use/development in the area in which it is proposed to locate, compliance with the relevant policy objectives, standards and requirements as set out in this Plan, and the general proper planning and sustainable development of the area"*. On this basis I am satisfied that retail units  $>200\text{sqm}$  are not precluded from the A2 zoning and that such a use may be considered on its merits subject to criteria outlined above.
- 7.2.10. The appeal site is located within the Northern Environs of Drogheda this area comprises an extensive landbank (c254ha) of zoned land which is intended to facilitate the northern expansion of the town, ensuring that sufficient capacity exists within the settlement to meet the population and economic growth targets envisaged in the NPF and RSES. The development of these lands in conjunction with the delivery of the Port Access Northern Cross Route (PANCR) is identified in the LCDP



as a fundamental element of the immediate and long-term growth strategy for the town.

7.2.11. Section 2.13.6 of the Louth County Council Development Plan 2021-2027 provides a background of the planning context for lands within the Northern Environs Development area. In accordance with this section, the roll out and phased delivery of residential lands in this area is informed by the Drogheda Environs Masterplan 2006. The Masterplan can be found at the following link [Masterplan 2006](#).

7.2.12. The 2006 Masterplan incorporates proposals for the sustainable development of three separate but integrated residential neighbourhoods with potential for c7100no. dwellings units. As per the phasing arrangements set out in the Masterplan, the delivery of residential units is tied in with the construction of the PANCR, including a stipulation that no more than 1400 dwellings within the plan area be occupied until PANCR is constructed to the Ballymakenny Road. The recent completion of this section of the PANCR, has likely contributed to an acceleration in the delivery of residential units in the area, evidenced by the extent of newly permitted, completed and under construction residential development in the vicinity of the appeal site. This new residential development will need to be supported by additional social and community facilities and infrastructure. Regard is had to Policy Objective SS 11 of the LCDP which seeks to *support the coordinated development of the Northern Environs of Drogheda with the provision and delivery of sustainable social and community facilities and infrastructure in tandem with residential development*.

7.2.13. The 2006 Masterplan provides that each residential neighbourhood is to be served by a Civic and Community Centre which are intended to provide for the day to day needs of future residents. The appeal site is within 'Neighbourhood 2'. Neighbourhood 2 has a stated net development area of 61.92ha and an identified capacity for up to 2,426 dwellings units. The indicative layout for Neighbourhood 2 (page 45 of the Masterplan) shows the civic and community centre centrally located within the plan area, on lands which encompass the appeal site. This centre is envisaged for a range of uses and services with a total GFA of 8,100sqm, including, inter alia, an anchor supermarket of up to 1600sqm GFA, an additional 900sqm of convenience retailing, to up 600sqm of comparison retail, 500 - 900sqm. of café / pub floorspace and a primary school.

The anchor store/supermarket proposed under this application (unit 4) at 1,998sqm GFA exceeds that set out the Masterplan; however, in my opinion the scale of this unit is not excessive and, with a net retail floor area of 1,257sqm would, I consider still be representative the small to medium scale supermarket envisaged in the Masterplan. In this regard it is of relevance to note that the Retail Planning Guidelines define Supermarkets as 'Single level, self-service stores selling mainly food, with a net retail floorspace of less than 2,500 M2'.

7.2.14. In terms of phasing the Masterplan seeks the commencement of construction of each of the Civic and Commercial Centre prior to the substantial completion of 50% of Phase1 dwellings in each neighbourhood and the completion of the centres prior to completion of Phase 2 dwellings in each neighbourhood. To date, only the primary school has been delivered to serve the Neighbourhood 2. In my opinion the proposed commercial scheme, would aid in the delivery of the retail services and uses deemed necessary to support the sustainable development of Neighbourhood 2 in a manner that would generally accord with the objectives and phasing arrangements set out in the 2006 Masterplan.

7.2.15. In addition, regard is had to policy objective EE 74 of the current LCDP which seeks *to promote the provision of local retail centres serving small, localised catchment populations in new residential areas, commensurate with locally generated needs.* The proposed scheme comprises c2,400sqm of commercial floor space (GFA) which is less than that previously permitted under ABP Ref: PL15.228370 (LCC Ref: 07/1399) and less than that envisaged in the Masterplan. The proposed scheme is I consider commensurate in scale to a Local or Neighbourhood Centre which is defined in the Retail Planning Guidelines as *a small group of shops, typically comprising newsagent, small supermarket/ general grocery store, sub-post office and other small shops of a local nature serving a small, localised catchment population.* In my opinion the proposed scheme would accord with this objective.

7.2.16. Having regard to the above, while I accept that Retail units >200sqm are not listed as a use class that is 'generally permitted or Open for Consideration within the A2 zone, I am satisfied that such units are not precluded from this zone. I am further satisfied that the retail unit in question, Unit 4, is of a nature and scale to support the day to day needs of existing and future residents in this area and that its location on these lands is adequately supported by the policy objectives and provisions of the Louth

County Development Plan 2021-2027. I therefore have no objection in principle to proposed Unit 4 (Convenience/Food Store Retail outlet).

- 7.2.17. In conclusion, I am satisfied that the proposed commercial development at this location would support the creation of a sustainable neighbourhood, that it would accord with the zoning objectives for the land in question and with the proper planning and development of the area. The principle of the development is therefore acceptable.

### **7.3. Compliance with County Retail Strategy:**

- 7.3.1. It has already been established that the provision of retail services and uses at this location and at a scale commensurate to the needs of the area would be acceptable and in accordance with the zoning objective and policy objectives of the CDP.
- 7.3.2. Section 4.4 of the Retail Planning Guidelines, on the ‘Sequential approach to the Location of Retail Development’, states that *where the location of a proposed retail development submitted on a planning application has demonstrated to the satisfaction of the planning authority that it complies with the policies and objectives of a development plan and/or relevant retail strategy to support city and town centre, additional supporting background studies such as a demonstration of compliance with the sequential approach, below, or additional retail impact studies are not required.*
- 7.3.3. Notwithstanding the above, the applicants have submitted a Retail Impact Assessment (RIA) as part of their response to the issues raised in the Grounds of Appeal. This RIA provides an analysis of the relevant retail planning policy as well as qualitative and quantitative assessments of the capacity for the quantum of retail floorspace proposed.
- 7.3.4. This RIA considers a net retail sales area of 1,344.5 sqm, comprising the proposed supermarket unit (Unit 4) and the larger of the two other retail units. This area is considered as convenience retail floorspace. The smallest retail unit (Unit 1 with a net retail sales area of 81.8 sqm) was not included in the RIA on the assumption that

at least one of the two smaller retail units will be utilised for retail services uses (e.g. hairdressers, laundrettes etc.). I consider this to be a reasonable assumption, in any event the additional 81.8sqm of net retail floor area is unlikely to have significant impact on the quantitative assessment of the RIA. The remaining unit, Unit 3 is proposed as a café / restaurant unit, and therefore is not considered as retail space for the purpose of RIA.

- 7.3.5. The catchment area utilised for the RIA consists of the immediate neighbourhood of the proposed development, taking in a small area of the existing built-up area of Drogheda to the south, and a portion of the northern environs of Drogheda (roughly covering Neighbourhood 2 within the 2006 Masterplan). It is recognised in the RIA that the catchment area is not a closed subject and there will be expenditure inflows and outflows from the area. The catchment area identified is limited; however, given the primary role and function of the proposed retail development, to support the existing and future population of this new residential neighbourhood, it is reasonable.
- 7.3.6. The quantitative analysis demonstrates that there is more than adequate capacity in the 2027 design year to support the proposed development without a material adverse impact on existing retail providers within the catchment area (of which there are none) or within the wider study area (the northern portion of Drogheda). The assumptions and projections utilised in the study are generally in accordance with the guidance set out in the Retail Planning Guidelines regarding quantitative assessment.
- 7.3.7. With regard to the location of the site, the appellant is critical of the sequential test undertaken by the applicant and contends that the proposed scheme would contribute to the identified vacancy within the town centre. Reference is made, in particular, to the vacant Abbey Street Shopping Centre and the former town centre Supervalu site on Stockwell Lane as two sites that should have been assessed in terms of the sequential test. Whilst I accept that there may be more centrally located sites that could accommodate the nature and scale of retail development proposed, regard must be had to the location of the subject site within the Northern Environs of Drogheda, and the long-established policy context for this area to develop new sustainable neighbourhoods with the necessary supporting social and community

infrastructure (including retail services and uses), the fact that the appeal site and adjoining lands have been identified as a suitable location for such services in the 2006 Masterplan (referenced in the LCDP) and the planning history of the site which has previously supported the development of the lands for retail development.

- 7.3.8. Overall, I am satisfied that the site is an appropriate location for the nature and scale of retail floorspace proposed and that that proposed scheme would accord with the proper planning and sustainable development of the area.

#### **7.4. Car Parking**

- 7.4.1. It is contended in the first party grounds of appeal that the proposed development provides significantly more car parking than what is required and that this would lead to an over-reliance on private vehicle trips, contrary to Core Strategic Objective 15 of the LCDP which seeks to *“Ensure the proper integration of transportation and land use planning through the increased use of sustainable transport modes and the minimisation of travel demand to achieve a sustainable, integrated and low carbon transport system with excellent connectivity both within and beyond the County”*.
- 7.4.2. As per Section 13.16.12 and Table 13.11 of the LCDP the proposed scheme would generate a demand for 116no car parking spaces. This is based on a standard of 1 parking space per 20sqm for food retail and restaurant /café/ takeaway uses. The proposed development provides for 177no. spaces which, if permitted, would result in a surplus of 61no. spaces.
- 7.4.3. The Traffic and Transport Assessment submitted with the planning application explains that this surplus car parking is intended to facilitate the future development of neighbouring lands within the applicants ownership, namely a planned shared workspace building to north of the appeal site with an expected car parking demand of 53no spaces and a planned mixed use (residential, commercial, medical service) building to the south with an anticipated parking demand of 50no spaces, 29no of which are to be provided within the curtilage of the building. These buildings are to be the subject of separate planning applications and if permitted would, together with

the proposed development, generate an overall demand for 219no. parking spaces, with a total of 206no spaces to be provided. I refer to Board to Drawing No. PA-002 submitted with the application, and which provides an indicative Overall Plan for the area.

- 7.4.4. In principle, I would agree with the approach taken by the applicant, to provide for parking facilities that meets the needs of the proposed development and the future development of adjoining lands, as this allows for an element of dual usage of parking facilities and consequently an overall reduction in the quantum of parking required. However, I accept the point made in the grounds of appeal that as it stands there is no guarantee that the adjoining lands will be developed as indicated.

Therefore, to permit the development as proposed has the potential to result in an oversupply of surface parking, this is a concern having regard to the current and emerging planning policy and guidance which supports a move away from a reliance on the private car and a shift towards more active travel modes (walking and cycling) and the use of public transport.

- 7.4.5. To address this issue the applicants have indicated that they would be willing to agree to a condition that the surplus 61no. parking spaces are not constructed until such time as they are required to serve the adjacent development, and that the area concerned be subject to temporary landscaping. I believe this to be an acceptable solution, and I would recommend to the Board that a condition to this effect be included in the event of a grant of permission

#### 7.5. **Other**

Condition 3 as attached to the PA decision restricts the hours of operation of the units on Saturdays to 08:00-14:00 with no provision for Sunday trading. I would consider this overly restrictive given the nature of the proposed development and its intention to serve the day to day needs of the local community. I would therefore recommend that the hours of trading be extended to between the hours of 0700 and 2200 Mondays to Sundays (including public holidays).

## 8.0 AA Screening

- 8.1. The Habitats Directive deals with the conservation of Natural Habitats and of wild fauna and flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.
- 8.2. Following the screening process (set out in Appendix 3 attached) it has been determined that Appropriate Assessment is required as it cannot be excluded, on the basis of objective information, that the proposed development individually will have a significant effect on the following European sites:
- River Boyne and River Blackwater SAC (Site Code 002299)
  - Boyne Coast and Estuary SAC (Site Code 001957)
  - Boyne Estuary SPA (Site Code 004080).
  - River Boyne and River Blackwater SAC
- 8.3. A hydrological connection between these sites and proposed development was identified via the Ushers Stream. The Ushers Stream flows approximately 185m west of the proposed development site, along a field boundary. While this is a reasonable separation distance, regard was had to the intervening land use which comprise a single field that is within the applicant's ownership, and that borders adjacent permitted developments within this ownership (Planning Ref. No's: 17/310, 22/215; 22/729; 22/730). It was acknowledged that activities not confined to the proposed development site may occur in this intervening area closer to the stream. Therefore, in the absence of mitigation, potential does exist for pollutants generated during the construction phase to enter the stream via surface water run-off, as follows:
- Sediment generated from earth works and site clearance. Potential loss of vegetation from truck movements and potential location of construction compounds / soil storage areas within the intervening areas between the site and

Ushers Stream and the subsequent potential for sediment to enter stream during heavy rainfall

- Hydrocarbons from vehicles/spills
- Cementitious material from construction works involving concrete/cement, movement of trucks carrying concrete/cement and concrete/cement washdown

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

#### Appropriate Assessment Stage 2

8.5. The application was accompanied by an NIS. I am satisfied that this document provides adequate information in respect of the proposed project and the baseline conditions, that it clearly identifies the potential impacts, and is based on best scientific information and knowledge. Also included in the application is an Ecological Impact Assessment and Flood Risk Assessment. A Preliminary Construction and Waste Management Plan was submitted at RFI stage. Overall, I am satisfied that the information on file is sufficient to allow the Board to carry out appropriate assessment of the proposed development.

8.6. The NIS examines and assesses potential adverse effects of the proposed development on the River Boyne and River Blackwater SAC and SPA, the Boyne Coast and Estuary SAC and the Boyne Estuary SPA. As previously noted, the main impact from the proposed development arises from the potential release of contaminated surface waters to the River Boyne during the construction phase, via the Ushers Stream.

8.7. Qualifying interests deemed to be at risk were identified as River Lamprey, Atlantic Salmon, Otter, Kingfisher, Wetlands and Waterbirds, Estuaries, Mudflats and sandflats, Salicornia mud and Atlantic Salt meadows. The potential adverse effects identified comprise the following:

- Potential for smothering of nursery silts and spawning gravels for river lamprey and Atlantic Salmon.
- Potential for temporary reduction in availability of fish prey for Otter and Kingfisher



- Potential impacts to the benthic community of 'intertidal estuarine mud and fine sand with *Hediste diversicolor* and *Corophium volutator*'.

*In-combination effects*

- 8.8. Regarding in-combination effects, the NIS, in section 5.3, identifies a several developments within the vicinity of the site which have the potential to result in cumulative impacts on water quality. The projects identified include the Port Access Northern Cross Route (PANCR) which involves a crossing of the Ushers Stream. I note from site inspection that the Phase 1 of the PANCR, the section R132 to the Ballymakenny Road is now open and operational. Following a search of the National Planning Application Database (NPAD) and An Bord Pleanála's mapping system, I note that a number of other projects, primarily residential in nature, have been granted in the vicinity of the site and the Ushers Stream since lodgment of the application. All such projects would have been subject to Appropriate Assessment. I further note that the potential for in combination effects was considered in the design of mitigation measures to ensure no adverse effects on any European Site.
- 8.9. I consider that with the implementation of specific environmental protection and control measures as outlined below to avoid/negate any potential adverse impacts, there will be no cumulative impacts arising in combination with any other plans or projects which would be of significance in respect to impacts affecting the conservation objectives of integrity of European sites.

*Mitigation:*

- 8.10. Section 5.5 of the NIS describes the mitigation measures proposed to avoid or minimise any negative impacts on the qualifying interests of the European Sites by preventing fine sediments, concrete/cement, hydrocarbons or any other pollutants from reaching surface waters. The report notes that all pollution control measures will be designed, installed and maintained in accordance with CIRIA guidelines for 'Environmental Good Practice on Site'.

The measures proposed are summarised below:

*Siltation:*

- Should any construction activities be undertaken in the intervening area between the site boundary and the Ushers Stream, silt fences will be installed

along the stream and will remain in situ until the disturbed area has been reinstated and revegetated.

- Surface water run-off from areas stripped of topsoil and surface water collected in excavation will be directed to on-site settlement ponds where measures will be implemented to capture and treat sediment laden run-off prior to discharge of surface water at a controlled rate.
- Weather conditions and seasonal weather variations will take into account when planning stripping of topsoil and excavations with the objective of minimising soil erosion
- The extent of sub-soil and topsoil stripping to be minimised.

#### Concrete:

- Concrete batching and wash down of contaminated equipment to take place off site where possible or if necessary, within designated areas with impermeable surfaces
- Excavations to be dewater prior to pouring of concrete

#### Hydrocarbons:

- Oil and fuel to be stored in designated areas away from surface water drainage features. Designated areas will be housed in suitable sized bunds to intercept leaks or spills.
- Refueling of constructed machinery to take place in designated areas away from surface water features.
- Spill kits and hydrocarbon absorbent packs to be kept in designated areas and operators trained on the use of this equipment
- All waste fuels, oils and other hazardous wastes will be disposed of in accordance with the requirements of the waste management Act 1996, as amended.

#### *Residual Effects*

- 8.11. On foot of the employment of mitigation measures no adverse effects on the qualifying interests of River Boyne and River Blackwater SAC (Site Code 002299); Boyne Estuary SPA (Site Code 004080); Boyne Coast and Estuary SAC (Site Code

001957); River Boyne and River Blackwater SPA (Site Code 004232) are anticipated.

### *Conclusion*

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

### AA Conclusion:

- 8.13. I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the River Boyne and River Blackwater SAC (Site Code 002299); Boyne Estuary SPA (Site Code 004080); Boyne Coast and Estuary SAC (Site Code 001957); River Boyne and River Blackwater SPA (Site Code 004232) or any other European site, in view of the sites' Conservation Objectives.

My conclusion is based on:

- Detailed assessment of all aspects of the proposed development that could result in significant effects or adverse effects on European Sites within a zone of influence of the development site.
- Consideration of the conservation objectives and conservation status of qualifying interest species and habitats.
- Application of mitigation measures designed to avoid adverse effects on site integrity and likely effectiveness of same.
- Consideration and assessment of in-combination effects with other plans and projects.
- The proposed development, alone and in combination with other plans and projects, would not undermine the favourable conservation condition of any

qualifying interest feature or delay the attainment of favourable conservation condition for any species or habitat qualifying interest for these European sites.

## **9.0 Recommendation**

- 9.1. I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations set out below.

## **10.0 Reasons and Considerations**

Having regard to the provisions of the Retail Planning Guidelines issued by the Department of the Environment, Community and Local Government in May 2012, the location of the proposed development within the Northern Environs of Drogheda, the relevant policy objectives, standards and requirements for this area as set out in the Louth County Development Plan 2021-2027 (as varied), the 2006 Masterplan for the area which supports the delivery of up to 2500sqm of Convenience retail at this location to meet the needs of future residents, the extent of permitted, constructed and under construction residential development in the area and the need to ensure that residential development is delivered in tandem with social and community infrastructure and services in accordance with Policy Objective SS11 of the Louth County Development Plan 2021-2027. It is considered that subject to compliance with the conditions set out below, the proposed development would accord the zoning objectives for the area as set out in the Louth County Development Plan and with the Retail Strategy for the County and would not seriously injure the visual or residential amenities of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 Conditions**

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 22 day of

December 2022 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

- 2 The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

**Reason:** To protect the integrity of European Sites.

- 3 The hours of trading shall be restricted to the hours of between 0700 and 2200 Mondays to Sundays and public holidays, unless otherwise agreed in writing with the Planning Authority prior to the commencement of trading, and if deemed necessary by the planning authority, subject of a separate grant of permission. Deliveries shall not take place outside of the hours of trading

**Reason:** In order to regulate the development in the interest of residential amenity

- 4 Details of the materials, colours and textures of all the external finishes to the proposed structures/ buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity and to ensure an appropriate high standard of development.

- (a) A maximum of 116no. car parking spaces shall be provided within the site to serve the proposed development. Each space shall be satisfactorily surfaced and lined with white durable material.
- (b) Lands associated with the remaining 61no. car parking spaces hereby not permitted, shall be levelled and grassed. These lands may be subject to separate future application(s) to meet the parking demands of the area or for other such uses as may be deemed appropriate.
- (c) Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of orderly development, visual amenity and proper planning and development.

- 6 A minimum of 20% of the permitted car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transport.

- 7 The landscaping scheme shown on drawing number DWG.01, as submitted to the planning authority on the 22 day of December 2022 shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

- 8 Prior to the commencement of development, the developer shall enter into a Connection Agreements with Uisce Éireann (Irish Water) to provide for a service connections to the public water supply and wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

- 9 Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason:** In the interest of proper planning and sustainable development.

- 10 Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority.  
The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, and environmental

management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures.

A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

**Reason:** In the interest of residential amenities, public health and safety and environmental protection

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

**Reason:** In order to safeguard the [residential] amenities of property in the vicinity.

- 12 Prior to the commencement of development, the developer shall submit, to and for the written agreement of the planning authority, a site layout plan detailing the area of the site that is to be 'Taken in Charge' by the local authority (access road and footpaths) and the portion of the site that is to remain in private control.

**Reason:** In the interests of traffic safety and orderly development

- 13 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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



14 The internal road network serving the proposed development including turning bays, junctions, parking areas, cycle paths, footpaths, and kerbs shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

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

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

16 Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

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

17 The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development. Prior to the commencement of such works the archaeologist shall consult with and forward to the National Monument Service (NMS) a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease

in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation [preservation in-situ/excavation].

The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the

National Monuments Service, shall be complied with by the developer.

Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final

archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required.

All resulting and associated archaeological costs shall be borne by the developer.

**Reason:** To ensure the continued preservation [either in situ or by record] of places, caves, sites, features or other objects of archaeological interest

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

**Reason:** It is a requirement of the Planning and Development Act 2000, as

amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

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Lucy Roche  
Planning Inspector

31<sup>st</sup> October 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	317657-23			
<b>Proposed Development Summary</b>	4 mixed commercial units and 177 parking spaces with all associated site works			
<b>Development Address</b>	Ballymakenny Road, Yellowbatter, Drogheda, Co. Louth			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X	
		<b>No</b>		
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>			EIA Mandatory EIAR required	
<b>No</b>	X		Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>		N/A		No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class 10 Infrastructure projects. (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the	the site has a stated area of 1.442ha	Proceed to Q.4

		case of other parts of a built-up area and 20 hectares elsewhere. 544 (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

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

## Appendix 2 - Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	<b>ABP-317657-23</b>	
<b>Proposed Development Summary</b>	4 mixed commercial units and 177 parking spaces with all associated site works	
<b>Development Address</b>	Ballymakenny Road, Yellowbatter, Drogheda, Co. Louth	
<p><b>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.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>		
	<b>Examination</b>	<b>Significant Effects Likely Yes / No / Uncertain</b>
<p><b>Nature of the Development.</b></p> <p><b>Is the nature of the proposed development exceptional in the context of the existing environment.</b></p> <p><b>Will the development result in the production of any significant waste, emissions or pollutants?</b></p>	<p>The subject site is a green field site adjacent to newly constructed / partly constructed residential developments to the west and south and further constructed, under construction and permitted developments in this wider area. the site is served by the newly upgraded Ballymakenny Road and by a newly constructed section of Port Access Northern Cross Road. The emerging area is primarily residential in nature.</p> <p>The nature of the proposed development, as a commercial development to support existing / future residents is not exceptional in the context of the existing / emerging environment.</p> <p>The removal of topsoil and C&amp;D waste can be managed through an agreed</p>	<b>No</b>

	<p>Construction and Environmental Management Plan.</p> <p>Localised construction impacts will be temporary and can be managed through an agreed Construction and Environmental Management Plan</p> <p>The proposed development would not give rise to waste, pollution or nuisances beyond what would normally be deemed acceptable within proximity to residential areas.</p>	
<p><b>Size of the Development</b></p> <p><b>Is the size of the proposed development exceptional in the context of the existing environment?</b></p> <p><b>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</b></p>	<p>The proposed development would provide retail / commercial uses to support existing and future residents. The size of the proposed development would not be exceptional in this context.</p> <p>There are a number of permitted primarily residential schemes in the area. There is therefore potential for this development to co-exist with other developments in the area. However, the proposed development would be subject to an approved construction management plan which would manage impacts during construction.</p>	<b>No</b>
<p><b>Location of the Development</b></p> <p><b>Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?</b></p> <p><b>Does the proposed development have the potential to significantly affect other significant</b></p>	<p>The site is not designated for the protection of landscape or natural or cultural heritage. The development does not have the potential to impact on protected structures.</p> <p>There are no ecologically sensitive locations on or in the vicinity of the site. A hydrological connection does exist between the appeal site and designated Natura 2000 sites (via the Ushers Stream); however, any matters arising can be adequately dealt with under the Habitats Directive (Appropriate Assessment). A Natural Impact</p>	<b>No</b>

<b>environmental sensitivities in the area, including any protected structure?</b>	Assessment (NIS) accompanies the application.	
<b>Conclusion</b>		
<b>There is no real likelihood of significant effects on the environment.</b> <b>EIA is not required.</b>		

Inspector:

Date:



## Appendix 3 – Screening for Appropriate Assessment

### Appropriate Assessment: Screening Determination

#### (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed commercial development in light of the requirements of S177U of the Planning and Development Act 2000 as amended. A Natura Impact assessment, incorporating a Stage 1 Screening exercise has been prepared by Gannon and Associates on behalf of the applicant and the objective information presented in that report informs this screening determination.

#### Site Location:

The subject site is in the northern extent of Drogheda town, on Ballymakenny Road, in the townland of Yellowbatter. The proposed development site is not within nor is it adjacent to any European site. The closest European site to the proposed development is the River Boyne and River Blackwater SAC situated approximately 2.0 kilometers to the South. Other European designated sites in the area include the Boyne Estuary SPA and the Boyne Coast and Estuary SAC which are approximately 2.3km and 3.2 kilometers to the southeast respectively and the River Boyne and Blackwater SPA which is situated approximately 3.6 kilometers to the southwest. All other European sites are greater than 8km distant from the proposed development site.

#### Description of the proposed development

I have provided a detailed description of the development in my report (Section 2.0) and detailed specifications of the proposal are provided in the AA screening report and other planning documents provided by the applicant. In summary, the proposal comprises the development of former agricultural lands for commercial use in the form of a 2,309sqm single-storey building incorporating 4 commercial units. The building is to be constructed to a maximum height of 9.8m. The development also includes the provision of 177no. car parking spaces, bicycle parking, shopping trolley bays, public open space and associated landscaping, boundary treatments, access road, footpaths and cycle facilities, foul and surface water drainage and public lighting. A new service access will be provided off Ballymakenny Road.

The application is accompanied, inter alia, by an Ecological Impact assessment Report, a Flood Risk Assessment and Construction Waste Management Plan.

### European Sites

6 no. of European sites were as being located within a potential zone of influence of the proposed development. These are:

European Site	Qualifying Interests	Distance	Connections
River Boyne and River Blackwater SAC (002299)	<ul style="list-style-type: none"> <li>• Alkaline fens</li> <li>• Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae)</li> <li>• <i>Lampetra fluviatilis</i> (River Lamprey)</li> <li>• <i>Salmo salar</i> (Salmon)</li> <li>• <i>Lutra lutra</i> (Otter)</li> </ul>	2km S	Yes- indirect connection via surface drainage
Boyne Estuary SPA (004080)	<ul style="list-style-type: none"> <li>• Shelduck, Oystercatcher</li> <li>• Golden Plover, Grey Plover,</li> <li>• Lapwing, Knot, Sanderling,</li> <li>• Black-tailed Godwit, Redshank,</li> <li>• Turnstone</li> <li>• Little Tern</li> <li>• Wetland and Waterbirds</li> </ul>	2.3km SW	Yes- indirect connection via surface drainage
Boyne Coast Estuary SAC (001957)	<ul style="list-style-type: none"> <li>• Estuaries,</li> <li>• Mudflats and sandflats not covered by seawater at low tide,</li> </ul>	3.1km SW	Yes- indirect connection via surface drainage

	<ul style="list-style-type: none"> <li>• Annual vegetation of drift lines,</li> <li>• Salicornia and other annuals colonising mud and sand,</li> <li>• Atlantic salt meadows,</li> <li>• Embryonic shifting dunes,</li> <li>• Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes),</li> <li>• Fixed coastal dunes with herbaceous vegetation (grey dunes)</li> </ul>			
River Boyne and river Blackwater SPA (004232)	<ul style="list-style-type: none"> <li>• Kingfisher (<i>Alcedo atthis</i>)</li> </ul>	3.7km SE	Yes- indirect connection via surface drainage	
River Nanny Estuary and Shore SPA (004158)	<ul style="list-style-type: none"> <li>• Oystercatcher (</li> <li>• Ringed Plover</li> <li>• Golden Plover</li> <li>• Knot</li> <li>• Sanderling</li> <li>• Herring Gull</li> <li>• Wetland and Waterbirds</li> </ul>	8kmSW	No	
Clogherhead SAC	<ul style="list-style-type: none"> <li>• Vegetated sea cliffs of the Atlantic and Baltic coasts</li> <li>• European dry heaths</li> </ul>	9.6km NW	No	

Four sites have been identified as being at risk from the proposed development, namely the River Boyne and River Blackwater SAC, the River Boyne and River Blackwater SPA, the Boyne Estuary SPA and Boyne Coast and Estuary. This risk derives from a source-pathway-receptor link identified between the proposed development and the European sites via the Ushers Stream, which is situated c185m west of the proposed development site. The Ushers Stream outflows to the River Boyne at Strand Road approx. 2.5km downstream of the proposed site. The Boyne River at this location is designated as an SAC. The Boyne Estuary SPA and Boyne Coast and Estuary SAC occur approximately 1.2km and 1.5km further downstream, respectively. The River Boyne and River Blackwater SPA is upstream of the Ushers Stream however the River Boyne is tidal as far as the Mattock River which encompasses some of the SPA.

The applicant also considered potential impacts on the River Nanny Estuary and Shore SPA and Clogher Head SAC, however, these were excluded by virtue of separation distance and the lack ecological connection / pathway.

Potential impacts on The North-West Irish Sea SPA (004236) were not considered. The North-West Irish Sea SPA was designated in September 2023, following the preparation of the NIS. Following consideration of this SPA and its qualifying interests and conservation objectives, I am satisfied that this SPA can be excluded by virtue of separation distance and dilution factor, together with nature and scale of the development proposed. [North-west Irish Sea SPA | National Parks & Wildlife Service \(npws.ie\)](https://npws.ie/north-west-irish-sea-spa)

**Likely impacts of the project alone or in combination with other plans and projects.**

The proposed development will not result in any direct effects on River Boyne and River Blackwater SAC, the Boyne Coast and Estuary SAC, Boyne Estuary SPA or the River Boyne and River Blackwater SAC.

The applicant has applied the source-pathway-receptor model in determining possible impacts and effects of the proposed commercial development. The main potential impact arises from a deterioration in water quality as a result of

contaminated surface waters entering the River Boyne during the construction phase, as follows:

- Sediment generated from earth works and site clearance. Potential loss of vegetation from truck movements and potential location of construction compounds / soil storage areas within the intervening areas between the site and Ushers Stream and the subsequent potential for sediment to enter stream during heavy rainfall.
- Hydrocarbons from vehicles/spills
- Cementitious material from construction works involving concrete/cement, movement of trucks carrying concrete/cement and concrete/cement washdown

The primary pathway to the River Boyne and River Blackwater SAC / SPA, the Boyne Coast and Estuary SAC and the Boyne Estuary SPA is via the Ushers Stream. A separation distance of c185m exists between the proposed development site and the Ushers Stream; however, the intervening lands are in the ownership of the applicant and there is some likelihood that these lands would be utilised during the construction phase (construction compounds, storage of materials etc.).

#### **Consideration of Potential Impacts:**

River Boyne and River Blackwater SAC: this SAC is designated for a mix of habitats and species. A reduction in water quality within the SAC as a result of the proposed development has the potential to negatively impact these habitats which in turn could have a negative effect on the qualifying interest species - Atlantic Salmon, River lamprey and Otter. In the absence of mitigation measures or further analysis the possibility of negative effects to the qualifying interests of the SAC as a result of water quality impacts cannot be excluded in the view of relevant conservation objectives.

Boyne Coast and Estuary SAC: this SAC is designated for a range of coastal habitats. The qualifying interest habitats at this location within the SAC comprise Estuaries, Mudflats and sandflats not covered by seawater at low tide. A reduction in water quality within the SAC as a result of the proposed development has the potential to negatively impact these habitats.

The Boyne Estuary SPA: this SPA is designated for 10 overwintering water bird species and for breeding little tern. A reduction in water quality within the SPA as a result of the proposed development has the potential to impact the wetland habitats that support these species.

River Boyne and River Blackwater SPA: this SPA is designated for breeding Kingfisher. This SPA is upstream of the Ushers Stream however the River Boyne is tidal as far as the Maddock River which encompasses the SPA. While there is no suitable breeding habitat for Kingfisher which the proposed development site, a reduction in water quality could affect foraging requirements of this species should they be of sufficient magnitude / duration.

The applicants screening statement concludes that the possibility that the proposed development will have a significant effect on the River Boyne and River Blackwater SAC (Site Code 002299); Boyne Coast and Estuary SAC (Site Code 001957); Boyne Estuary SPA (Site Code 004080) and River Boyne and River Blackwater SAC cannot be excluded.

I concur with the applicants' findings that such impacts could be significant in terms of the stated conservation objectives of the SAC's and SPA's when considered on their own and in combination with other projects and plans in relation to pollution related pressures on qualifying interest habitats and species.

### **Overall Conclusion**

In accordance with Section 177U 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 could result in significant effect on the

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

It is therefore determined that Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000] is required.

Inspector:

Date: