



An
Bord
Pleanála

Inspector's Report ABP-320091-24

Development

Construction of 3 office buildings ranging 3 to 4 storeys in height and all associated site works. Natura Impact Statement submitted. Significant further information/revised plans submitted on this application.

Location

Bennetstown, Pace, Dunboyne, Co. Meath.

Planning Authority

Meath County Council

Planning Authority Reg. Ref.

23424

Applicant(s)

McGarrell Reilly Homes.

Type of Application

Planning Permission.

Planning Authority Decision

Grant permission.

Type of Appeal

First Party

Appellant(s)

McGarrell Reilly Homes.

Observer(s)

No Observers.

Date of Site Inspection

28th of November 2024.

Inspector

Elaine Sullivan

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1.0 Site Location and Description

- 1.1. The subject site is in the townland of Bennettstown, Pace approximately 1.75km to the north of Dunboyne. It is a greenfield site with a stated area of approximately 2.9 hectares. The site is bounded by the R157 to the south and by the M3 to the east. Access to the M3 is from Junction 5 which intersects with the R157 directly to the east of the site. The M3 Parkway is located to the South of the site and on the opposite side of the R157. An existing roundabout provides access to the parkway car park and to the subject site.
- 1.2. To the west, the site is bounded by open agricultural land with some dispersed rural housing and ribbon development to the north. To the north-east there is some commercial development off the R147 with the Avoca retail outlet and café and the Kilsaran head office and campus approximately 1.8km away. The river Tolka river flows to the north-east of the site and intersects a portion of the site that would carry services. The site is generally flat but slopes to the north-east and towards the river Tolka.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following development,
 - The construction of 3 no. office buildings with a cumulative gross floor area (GFA) of 13,729 sq.m ranging in height from 3 to 4- storeys.
 - Roof mounted solar PV panels (c. 180 sq.m combined area)
 - The provision of a 4-arm signalised junction replacing the existing Pace roundabout to include a new northern arm with segregated cycleway and footpath. Access to the development is proposed from the new northern arm, with 6m wide internal access roads to serve the development.
 - Upgrade works to the R157 and M3 Parkway access road to facilitate junction improvements.
 - The provision of 275 surface car parking spaces including 14 disabled access bays and 55 electric car charging points and 280 bicycle parking spaces in 3 secure cycle storage areas adjacent to the buildings.

- Site signage to be spot-lit and back-lit illuminated, including 2 no. type 1 entrance signs (6.15m x 2.4m) and 3 no. type 2 building signs (1.35m x 2.4m).
- 3 standalone electricity substations.
- A foul sewer connection to existing public system including pumping station on site with rising mains along Kennedy Road and Navan Road and a watermain connection to the northeast of site at Pace for connection to Irish Water Infrastructure.
- Permission is also sought for associated landscaping, boundary treatments, public lighting, plant, waste storage and all ancillary site and development works.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was granted by the Planning Authority (PA) subject to 23 planning conditions.

Condition No. 2 is the subject of the appeal and states the following,

The location of building No 03 as indicated on the site layout plan shall not be permitted. Prior to the commencement of development on site the applicant/developer shall submit for the prior written agreement of the Planning Authority:

- a) a revised site layout plan relocating Building No. 3 within the site boundary together with all relevant infrastructure outside Flood Zones A and B. The lands within Flood Zones A and B within the site should not be artificially raised to ensure that there is no increase in potential flood risk elsewhere outside the site. Otherwise, the onus is on the developer to prove that any infilling within the site has no additional flooding impact on lands outside the site.*
- b) A Development Management Justification Test as set out in Chapter 5 of DOEHLG / OPW publication 'The Planning System and Flood Risk Management, Guidelines for Planning Authorities and with reference to OPW*

flood mapping and Meath County Council's Mapinfo flood mapping for the relevant area.

Reason: In the interests of protection of the environment and flooding.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The decision of the PA was informed by two reports from the Planning Officer (PO). The first report dated the 9th of June 2023 notes that the principle of the development is acceptable and that the site represents an appropriate location for the proposed development.

- The main body of the development would be located on lands zoned E1/E3 – Strategic Employment Zones (High Technology Uses) / Warehousing and Distribution.
- The objective of the E1 Strategic Employment Zones (High Technology Uses) zoning is 'To facilitate opportunities for high end technology/manufacturing and major campus style office-based employment within high quality and accessible locations'. The objective of the 'E3 Warehousing and Distribution zoning is 'To facilitate logistics, warehousing, distribution and supply chain management inclusive of related industry facilities which require good access to the major road network'.
- The site is also within Masterplan Area 22.
- A Masterplan for the area was prepared by the applicant and was submitted to Meath County Council for approval. The Masterplan was agreed by the Executive of Meath County Council on the 20th of January 2023.
- (Note to the Board – A copy of the Masterplan was not submitted with the application, but a graphic of the overall plan is shown in Figure 1 of the Environmental Impact Assessment Screening Report).
- The Masterplan proposes 3 no. phases for the delivery of development on the lands. The proposed development represents the first phase of development, (Phase 1A).

- The PO considered the design, siting and layout of the proposed office buildings to be acceptable.
- Further information was recommended regarding transport and traffic, wastewater infrastructure and connection, surface water management and flood risk. The applicant was also requested to clarify the discrepancy in the documentation regarding the proposed duration of the permission.

The second report of the PO reviewed the response to further information (FI) submitted by the applicant. The report found that the applicant had generally complied with the requirements regarding traffic and transport and wastewater infrastructure. The applicant clarified that they were seeking a 10-year permission for the development. The PO noted the report of the Environment Department which did not consider that the issue of flood risk had been adequately addressed and considered that the issue could be addressed through a planning condition.

3.2.2. Other Technical Reports

- **Public Lighting** – FI requested regarding revisions to the lighting design at junctions.
- **Broadband Officer** – No objection. The developer should engage with service providers to determine how to provide the best connectivity.
- **Water Services** – FI recommended regarding the design of the proposed surface water treatment system and disposal. The report prepared on foot of FI states that the response broadly meets the requirements of the PA regarding the orderly collection, treatment and disposal of surface water. Planning conditions are recommended.
- **Transportation Department** – FI recommended on several points which included revisions and updates to the TIA, the provision of a Statement of Consistency to demonstrate that the quantum of development is compatible with the Transportation Study at Dunboyne and Environs, proposals and details for enhanced and improved pedestrian and cycle connections, consideration of approved alterations to the road network (Part 8 approvals), road signal arrangements, the preparation of a Stage 1 Quality Audit, a Road Hierarchy Drawing and internal road layouts.

FI Report - A second report was prepared by the Transportation Department in response to the FI submission. The department found the information submitted to be generally acceptable and recommended planning conditions should permission be granted.

- **Environment Flooding and Surface Water Department** – FI recommended. The proposed development is 'Highly Vulnerable' to flood risk. The site is partially within Flood Zone A and requires a Justification Test. The Site Specific Flood Risk Assessment (SSFRA) does not state if the development will increase flood risk elsewhere and is not detailed enough to make an informed decision. A revised SSFRA is required.
- FI Report - The department was not satisfied that the FI submitted addressed the concerns raised regarding flood risk. The report states that the applicant had not assessed the degree to which flood risk would be increased elsewhere because of the development and the Justification Test has not been applied as requested. Therefore, the proposal would not satisfy the Justification Test part 2(i) and from a flood risk perspective the department cannot recommend that permission is granted.
- It is the opinion of the Env. Flooding Dept. that if Building No. 3 was positioned outside of Flood Zones A and B, and the lands within Flood Zones A and B on the site had not been raised, the impact of flood risk elsewhere could have been avoided and the Justification Test would have been satisfied.

3.2.3. Conditions

- Condition No. 2

The location of building No 03 as indicated on the site layout plan shall not be permitted. Prior to the commencement of development on site the applicant/developer shall submit for the prior written agreement of the Planning Authority:

- a) a revised site layout plan relocating Building No. 3 within the site boundary together with all relevant infrastructure outside Flood Zones A and B. The lands within Flood Zones A and B within the site should not be artificially raised to ensure that there is no increase in potential flood risk elsewhere*

outside the site. Otherwise, the onus is on the developer to prove that any infilling within the site has no additional flooding impact on lands outside the site.

- b) A Development Management Justification Test as set out in Chapter 5 of DOEHLG / OPW publication 'The Planning System and Flood Risk Management, Guidelines for Planning Authorities and with reference to OPW flood mapping and Meath County Council's Mapinfo flood mapping for the relevant area.*

Reason: In the interests of protection of the environment and flooding.

- Condition No. 3

This permission shall be for a period of ten (10) years from date of this order unless prior to the end of this period, a further grant of planning permission has issued.

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

3.3. Prescribed Bodies

- **Uisce Éireann** – FI required regarding the Confirmation of Feasibility. The application submitted referred to a residential development and not an office building. Major upgrades are required to provide water and wastewater connections to the proposed development. Details must be agreed prior to a recommendation being made.
- **TII (Transport Infrastructure Ireland)** – The proposed development is at variance with official policy in relation to the control of development on/affecting national roads as per the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) as the development would adversely affect the operation and safety of the national road network. The report sets out several reasons as to how this conclusion was reached which include a lack of information, (the Traffic & Transport Assessment (TTA) was not on the website) development forecasts for the lands, compliance with the

Dunboyne and Environs Transport Study and the lack of consultation regarding the Masterplan for the lands. Clarification on all points is requested.

FI Report - A further submission was received from TII on foot of the FI submission. No objection to the FI. TII will rely on the PA to abide by official policy in relation to development on/affecting national roads. The development shall be undertaken in accordance with the recommendations of the Transport (Traffic Impact) Assessment.

- **NTA (National Transport Authority)** – Report dated the 23rd of May 2023 - There are concerns regarding the quantum of development proposed and the potential that it would result in unsustainable levels of car usage. The NTA were not consulted on the Masterplan prepared for the lands and agreed by the PA. It is not demonstrated that the Masterplan for the lands accords with national policy on transport and climate action. The NTA recommends that the level of car parking proposed be reviewed in the context of nearby public transport. The TTA was not publicly available on the website and the lack of its availability compromised the NTA's ability to fully assess the proposal.
- Correspondence on file from the PA to the NTA notes that the TTA was publicly available on the website but was incorrectly labelled. In addition, a Mobility Management Plan had not been uploaded to the public file. Both documents were circulated via a shared link.
- Additional comments were received from the NTA on the 30th of May 2023. The comments reiterate previous comments regarding the non-compliance of the Masterplan with national policy and climate action. The NTA recommends that the development of the site should be guided by a Local Area Plan (LAP) and an updated Local Transport Plan. The application should accord with national and regional policy regarding active travel and sustainable transport to meet carbon reductions in the transport sector. The poor quality of pedestrian and cycle links between the site and Dunboyne Village are noted. Many of the residential areas to the east and south of the village are beyond the 30-minute walking catchment to the site with no public transport options. The combination of sufficient road capacity, high levels of car parking, limited public transport and poor connectivity is likely to result in high levels of

unsustainable car-based travel which is at variance to national policy. Significant improvements in active travel connections are required. NO response to FI on file.

- **Department of Housing Local Government and Heritage** – It is recommended that a condition pertaining to Archaeological Monitoring be included in any grant of permission.

3.4. **Third Party Observations**

- No third-party observations were received by the PA.

4.0 **Planning History**

4.1. There is no planning history for the subject site.

On sites nearby –

- 4.2. **ABP-320049-24 (PA Ref. 2360290)** – Planning appeal currently before the Board for a Large-Scale Residential Development of 267 no. residential units including houses and apartments, with a creche and all ancillary works on a site to the south of the subject site and to the south of the M3 Parkway. The site is within the Masterplan 22 lands.
- 4.3. **ABP-319422-24** – Section 182A application for the East Meath – North Dublin Grid Upgrade project consisting of approximately 37.5 kilometres (km) of new 400 kilovolt (kV) underground cable circuit between the existing Woodland Substation in the townland of Woodland in County Meath, and the existing Belcamp Substation in the townlands of Clonshagh and Belcamp in Fingal. The development passes through
- 4.4. **ABP-314232-22** – Railway order approved for the DART+West project towards Kildare and Meath.
- 4.5. **PA Ref. 23/60065** – Planning permission granted by the PA in 2024 on a site to the south of the subject site for the construction of a single-storey commercial building with a cumulative gross floor space (GFS) of 2,160 sq.m comprising: a. A supermarket with delivery, store and service area (1,880 sq.m), including net retail floorspace of 1,510 sq.m, and b. 2 commercial units (combined 280 sq.m) to facilitate Class 1 (Shop), Class 2 (Financial, Professional and Other Services) or

Café (food and beverage) uses. Upgrade works to the existing road network are also proposed all ancillary infrastructure works.

5.0 Policy Context

5.1. Development Plan

The ***Meath County Development Plan 2021-2027*** (MCDP) is the operative Development Plan for the subject site.

The site is also within the boundary of the It is also within the boundary of the **Dunboyne, Clonee and Pace** settlement. The development strategy for this settlement is set out in Volume 2 of the MCDP.

The subject site is zoned '*E1/E3 – Strategic Employment Zones (High Technology Uses) / Warehousing & Distribution*'.

The E1 zoning is for 'Strategic Employment Zones (High Technology Uses)' and has the overall objective, '*To facilitate opportunities for high end technology/manufacturing and major campus style office-based employment within high quality and accessible locations.*' Office Use is listed as a 'Permitted Use' in the E1 zoning objective.

The E3 zoning is for 'Warehousing and Distribution', the objective of which is '*To facilitate logistics, warehousing, distribution and supply chain management inclusive of related industry facilities which require good access to the major road network.*'

The site also forms part of a wider Masterplan Area - MP 22, which is designated as a Strategic Employment Site in the Dunboyne, Clonee and Pace Land Use Zoning Map.

Section 7 of the Settlement Plan for Dunboyne, Clonee and Pace describes the MP 22 lands as '*Dunboyne North – mixed use lands consisting of employment, residential and commercial lands adjacent to the M3 Parkway Park and Ride facility.*'

This section also sets out the goals for the delivery of the Master Plan land uses, which includes – '*High end office-based employment which shall be at a level commensurate with its location and proximate to a multi-modal public transport*

interchange. Strategic employment use predominantly led by a Science Park for Innovation & Research and Educational Facilities or similar high end “E1” office-based uses.’

Chapter 6 – Infrastructure Strategy

Policies –

- **INF POL 16** - To ensure that all planning applications for new development have regard to the surface water management policies provided for in the GDSDS.
- **INF POL 18** - To implement the “Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoEHLG/OPW, 2009) through the use of the sequential approach and application of Justification Tests for Development Management and Development Plans, during the period of this Plan.
- **INF POL 19** - To implement the findings and recommendations of the Strategic Flood Risk Assessment prepared in conjunction with the County Development Plan review, ensuring climate change is taken into account.
- **INF POL 20** - To require that a Flood Risk Assessment is carried out for any development proposal, where flood risk may be an issue in accordance with the “Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoECLG/OPW, 2009). This assessment shall be appropriate to the scale and nature of risk to and from the potential development and shall consider the impact of climate change.
- **INF POL 25** - To have regard to the recommendations of the Fingal East Meath Flood Risk Assessment and Management Study (FEMFRAMS) and the Eastern Catchment Flood Risk Assessment and Management Study (CFRAMS).
- **INF POL 26** - To undertake a review of the ‘Strategic Flood Risk Assessment for County Meath’ in light of the completed flood mapping which has been developed as part of the Eastern Catchment Flood Risk Assessment and Management (CFRAM) Study.

Objectives –

- **INF OBJ 20** - To implement the Planning System and Flood Risk Management-Guidelines for Planning Authorities (DoEHLG/OPW 2009) or any updated guidelines. A site-specific Flood Risk Assessment should be submitted where appropriate.
- **INF OBJ 21** - To restrict new development within floodplains other than development which satisfies the Justification Test, as outlined in the Planning System and Flood Risk Management Guidelines 2009 for Planning Authorities (or any updated guidelines).
- **INF OBJ 25** - To require the use of Sustainable Urban Drainage Systems (SuDS) to minimise and limit the extent of hard surfacing and paving and require the use of sustainable drainage techniques where appropriate, for new development or for extensions to existing developments, in order to reduce the potential impact of existing and predicted flooding risks.

Flood Risk Assessment and Management Plan for the Meath CDP 2021-2027 (Volume 4 of the MCDP).

Table 3.3 of the Flood Risk Assessment and Management Plan (FRA) for the MCDP identifies that the main risk of flooding in the Dunboyne, Clonee, Pace area is from fluvial flooding and that previous flooding events from the river Tolka were recorded in 2000 and 2002.

Section 4 – Flood Risk Management notes that, ‘*The implementation of the Planning Guidelines on a settlement basis is achieved through the application of the policies and objectives contained within the MCDP 2021-2027. The use and application of the policies and guidelines constitutes the formal plan for flood risk management in County Meath. This approach has been achieved in the development plan making process in the settlements contained within the plan and covered in this SFRA.*’

4.8 – Applications for Developments in Flood Zone A or B

4.8.3 – Less vulnerable development in Flood Zones A or B - Less vulnerable development includes retail, leisure, warehousing, technology, enterprise and buildings used for agriculture and forestry a comprehensive categorisation of land uses and vulnerability is provided in Table 5-1 on Page 35 (of the FRA). The design

and assessment of less vulnerable development should generally begin with 1% AEP fluvial or 0.5% tidal events as standard, with climate change and a suitable freeboard included in the setting of finished floor levels.

4.9 – Key Points for FRAs for all types of development – The following points are included,

- Finished floor levels to be set above the 1% AEP fluvial (0.5% AEP tide) level, with an allowance for climate change plus a freeboard of at least 300mm.
- Compensatory storage is to be provided to balance floodplain loss as a result of raising ground levels within Flood Zone A. The storage should be provided within the flood cell and on a level for level basis up to the 1% level.
- For less vulnerable development, it may be that a finished floor level as low as the 1% AEP level could be adopted, provided the risks of climate change are included in the development through adaptable designs or resilience measures.

Table 5.1 - Land Zoning Objectives and Vulnerabilities, sets out the specific vulnerability of the proposed land use, coupled with the Flood Zone in which it lies to determine the need for the application of the Justification Test.

- For Zoning Objective E1 – a Justification Test is required for Highly Vulnerable development in Flood Zone A or B and for Less Vulnerable development in Flood Zone A.
- For Zoning Objective E3 - a Justification Test is required for Highly Vulnerable development in Flood Zone A or B and for Less Vulnerable development in Flood Zone A.

Section 5.15 relates to the settlement of Dunboyne/Clonee/Pace. Regarding the subject site, Section 5.15 states that, *‘There is a small overlap of Flood Zone B to the periphery of E3 lands southwest of the railway station, and also E1/E3 lands to the north west of the station. This land use represents warehousing and distribution and high technology warehousing/distribution and is generally less vulnerable to the impacts of flooding. Risk should be assessed at development management stage and the recommendations in Section 4.8 of this report should apply.’*

5.2. National Guidelines

5.2.1. The Planning System and Flood Risk Management; Guidelines for Planning Authorities & Technical Appendices 2009 (hereinafter referred to as the Flood Risk Guidelines)

The core objectives of the guidelines are as follows,

- Avoid inappropriate development in areas at risk of flooding,
- Avoid new developments increasing flood risk elsewhere,
- Ensure effective management of residual risks for development permitted in floodplains,
- Avoid unnecessary restriction of national, regional or local economic and social growth,
- Improve the understanding of flood risk among relevant stakeholders.

Para 2.16 states that *‘The vulnerability of development to flooding depends on the nature of the development, its occupation and the construction methods used.’* A broad classification of vulnerability has been developed and is set out in Chapter 3 of the guidelines. The classification of different land uses and types of development as highly vulnerable, less vulnerable and water-compatible is influenced primarily by the ability to manage the safety of people in flood events and the long-term implications for recovery of the function and structure of buildings.

Para 2.17 notes that transport and strategic utilities infrastructure can be particularly vulnerable to flooding because interruption of their function can have widespread effects well beyond the area that is flooded. Reference is made to historical floods in the UK where water supply was cut off to large areas.

Flood Zones are defined in Section 2.23 as follows,

- Flood Zone A – where the probability of flooding from rivers and the sea is highest (greater than 1% or 1 in 100 for river flooding or 0.5% or 1 in 200 for coastal flooding);
- Flood Zone B – where the probability of flooding from rivers and the sea is moderate (between 0.1% or 1 in 1000 and 1% or 1 in 100 for river flooding

and between 0.1% or 1 in 1000 year and 0.5% or 1 in 200 for coastal flooding); and

- Flood Zone C – where the probability of flooding from rivers and the sea is low (less than 0.1% or 1 in 1000 for both river and coastal flooding). Flood Zone C covers all areas of the plan which are not in zones A or B.

Tables 3.1 and **3.2** illustrate those types of development that would be appropriate to each flood zone and those that would be required to meet the Justification Test.

- **Table 3.1** sets out the Vulnerability Classes for development, (Highly Vulnerable, Less Vulnerable and Water-compatible) and gives examples of land uses and types of development that could be categorised under each class. It is noted in the text that land uses not listed in the table should be assessed on their merits.
- **Table 3.2** contains a matrix of vulnerability versus flood zone to illustrate appropriate development and that required to meet the Justification Test.

Section 3.5 notes that **Flood Zone A** has a High Probability of Flooding and is that most types of development would be considered inappropriate. Where development is required in this zone a Justification Test must be carried out.

Flood Zone B has a Moderate Probability of Flooding. Highly vulnerable development, such as hospitals, residential care homes, Garda, fire and ambulance stations, dwelling houses and primary strategic transport and utilities infrastructure, would generally be considered inappropriate in this zone, unless the requirements of the Justification Test can be met. Less vulnerable development, such as retail, commercial and industrial uses... strategic transport and utilities infrastructure, and water-compatible development might be considered appropriate in this zone.

Flood Zone C has a Low probability of flooding. Development in this zone is appropriate from a flood risk perspective (subject to assessment of flood hazard from sources other than rivers and the coast).

Section 5.1 relates to the Application of the Justification Test in development management and states that, *'Where a planning authority is considering proposals for new development in areas at a high or moderate risk of flooding that include types of development that are vulnerable to flooding and that would generally be*

inappropriate as set out in Table 3.2, the planning authority must be satisfied that the development satisfies all of the criteria of the Justification Test as it applies to development management outlined in Box 5.1.'

Box 5.1 of the Guidelines sets out the considerations to be included in the Justification Test for development proposals and contains a set of criteria that must be satisfied.

Appendix A of the Guidelines relates to the Identification and Assessment of Flood Risk. Section 1.6 of Appendix A addresses 'Flood risk assessment - recommended outputs'. Included in the key outputs for assessments are,

- Proposals for surface-water management according to sustainable drainage principles and any strategy developed in the SFRA for the area, with the aim of not increasing, and where practicable, reducing the rate of run-off from the site as a result of the development, and
- The likely impact of any displaced flood water on third parties caused by alterations to ground levels, reducing floodplain attenuation, impeding flood flow routes or raising flood embankments and the means of providing compensation for this loss of floodplain, where necessary. Details on how to approach the provision of floodplain compensation is provided in Appendix B section 3.3

5.2.2. **Development Management Guidelines for Planning Authorities, (2007).**

Chapter 7 – Drafting Planning Conditions

Planning conditions should be:

- Necessary – i.e., whether, without the condition, either permission for the development would have to be refused, or the development would be contrary to the proper planning and sustainable development in some identifiable manner.
- Relevant to planning – the requirements of a condition should be directly related to the development to be permitted or the condition may be ultra vires and unenforceable.

- Relevant to the development permitted.
- Enforceable – conditions should be effective and capable of being complied with.
- Precise – every condition should be precise and understandable.
- Reasonable - a useful test of reasonableness may be to consider whether a proposed condition can be complied with by the developer without encroachment on land that he or she does not control, or without otherwise obtaining the consent of some other party whose interests may not coincide with his/hers.

5.2.3. OPR Practice Note PN03 – Planning Conditions

- The OPR practice note on planning conditions was issued in October 2022 and contains information and guidance for planning authorities on how to draft standard planning conditions.

5.3. Natural Heritage Designations

5.3.1. No natural heritage designations apply to the subject site.

5.4. EIA Screening

5.4.1. An Environmental Impact Assessment Screening Report and a Statement in accordance with Article 103(1A) of the Planning and Development Regulations 2001 (as amended), were submitted with the application. The applicant determined that the project was sub-threshold for the purposes of EIA and the development was assessed against the criteria set out in Schedule 7 and Schedule 7A.

5.4.2. I have carried out an EIA screening determination on the project which is set out in Appendix 2 – Form 3 of this report.

5.4.3. I consider that the location and scale of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would

be rendered significant by its extent, magnitude, complexity, probability, duration, frequency, or reversibility. In these circumstances, the application of the criteria in Schedule 7 and 7A, to the proposed sub-threshold development, demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the information provided in the applicant's report and with the conclusion of the PA.

- 5.4.4. As I intend to assess this appeal as a Section 139 appeal which relates only to Condition No. 2 of the planning permission, the decision of the Planning Authority in relation to EIA still stands.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal relate to Condition No. 2 of the notification of decision of the PA. Condition No. 2 states the following,

The location of building No 03 as indicated on the site layout plan shall not be permitted. Prior to the commencement of development on site the applicant/developer shall submit for the prior written agreement of the Planning Authority:

- c) a revised site layout plan relocating Building No. 3 within the site boundary together with all relevant infrastructure outside Flood Zones A and B. The lands within Flood Zones A and B within the site should not be artificially raised to ensure that there is no increase in potential flood risk elsewhere outside the site. Otherwise, the onus is on the developer to prove that any infilling within the site has no additional flooding impact on lands outside the site.*
- d) A Development Management Justification Test as set out in Chapter 5 of DOEHLG / OPW publication 'The Planning System and Flood Risk Management, Guidelines for Planning Authorities and with reference to OPW flood mapping and Meath County Council's MapInfo flood mapping for the relevant area.*

Reason: In the interests of protection of the environment and flooding.

- The applicant is appealing the decision of the PA on two grounds. The first ground relates to improper assessment of supporting information in accordance with Part 3, Section 34, (3)(a) of the *Planning and Development Act 2000* (as amended) whereby, *A planning authority shall, when considering an application for permission under this section have regard to - (a) in addition to the application itself, any information relating to the application furnished to us by the applicant in accordance with the permission regulations.*
- The applicant refutes the application of Condition 2 on the basis that building No. 3 is not located within flood zones A or B. Notwithstanding this, the applicant acknowledges that a portion of building No. 2 is partially located within Flood Zone B lands.
- A Site-Specific Flood Risk Assessment (SSFRA) and addendum SSFRA was submitted as part of the planning application and concluded that office use, as a less vulnerable development, is acceptable in Flood Zone B lands and does not require a justification test as per the *Planning System and Flood Risk Management Guidelines for Planning Authorities 2009* (Flood Risk Guidelines).
- Regarding the infilling of the site, the appeal contends that there are no requirements within the Flood Risk Guidelines (FRG) to determine the impact that infilling has on lands elsewhere. The Guidelines recognise that where infilling is undertaken, there could be an increased risk of flooding elsewhere and compensatory storage is required. However, this only applies to Flood Zone A.
- A technical note has been prepared by the applicant's consultants addressing these issues and was submitted as part of the appeal.
- The second ground of appeal specifically relates to condition No. 2(b) and argues that whilst building No. 2 is located within Flood Zone B there is no requirement to undertake a development management justification test in accordance with the FRG when all components of the proposed development are in flood zones which are appropriate to their vulnerability classification.

- The applicant contends that the PA has erred in its decision on this matter. It is also put forward that, having regard to the Flood Zone B designation of part of office building No. 2 (although not specifically referenced in the condition) and the circumstances where a Justification Test is required, as illustrated in the technical document accompanying the appeal, the request for a Justification Test is not appropriate or required in this instance.

6.2. Planning Authority Response

A response was received from the PA on the 6th of August 2024 and included the following,

- The Board is requested to consider the Planning Reports and all supporting technical reports in its consideration of the appeal.
- The application site is located within the area designated to accommodate a live work community at Dunboyne North. The PA fully supports the development at this location and requests that the Board uphold its decision.

6.3. Observations

- No observations received.

7.0 Assessment

- 7.1. This is a first-party appeal against Condition No. 2 attached to the Planning Authority's notification of decision to grant permission under PA Ref. 23/424. The first part of Condition No. 2 requires the relocation of Building No. 3 within the development site but outside of Flood Zones A and B along with all infrastructure. The second part of Condition No. 2 requires that the applicant to submit for written agreement, a Development Management Justification Test as set out in Chapter 5 of the DOEHLG/OPW publication '*The Planning System and Flood Risk Management Guidelines for Planning Authorities*', with reference to OPW flood mapping and Meath County Council's MapInfo flood mapping for the relevant area.

7.2. I have reviewed the planning application which is for the construction of three office buildings, car and bicycle parking, surface water drainage works, the replacement of the Pace roundabout with a four-arm junction, upgrade works to the R157 and the M3 Parkway access road, and connections to the public foul sewer network and the public mains water supply. Having regard to the nature of the development for office development within an area zoned 'E1/E3 – Strategic Employment Zones (High Technology Uses) / Warehousing & Distribution' and within Master Plan Area 22 which has been designated as a Strategic Employment Site, it is considered that the determination of the Board of the application as it had been made to it in the first instance is not required and that a *de novo* assessment would not be warranted. Therefore, I recommend that the Board should determine the matters raised in the appeal only, in accordance with Section 139 of the Planning and Development Act 2000, as amended.

7.3. **Appropriate Assessment**

7.3.1. The application was accompanied by an Appropriate Assessment Screening Report and a Natura Impact Statement. Condition No. 2 requires that the location of Building No 3 shall not be permitted and that a revised site layout shall be submitted relocating the building within the site boundary. Under Section 139(1)(c) of the Planning and Development Act 2000 (as amended), hereinafter referred to as the 'Planning Act', the Board may consider an appeal against conditions attached to a grant of permission where, *'the Board is satisfied, having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as it had been made to it in the first instance would not be warranted'*. As Condition No. 2 would result in additional development as defined under Part 3(1) of the Planning Act, it is subject to screening for appropriate assessment under Section 177U of the Planning Act.

7.4. **Assessment**

7.4.1. Condition No. 2 comprises two parts which impose separate obligations on the applicant. In the interest of clarity, I will address the requirements of both parts of Condition No. 2 separately.

7.5. Condition No. 2(a) states -

The location of building No. 03 as indicated on the site layout plan shall not be permitted. Prior to the commencement of development on site the applicant/developer shall submit for the prior written agreement of the Planning Authority:

- a) a revised site layout plan relocating Building No. 3 within the site boundary together with all relevant infrastructure outside Flood Zones A and B. The lands within Flood Zones A and B within the site should not be artificially raised to ensure that there is no increase in potential flood risk elsewhere outside the site. Otherwise, the onus is on the developer to prove that any infilling within the site has no additional flooding impact on lands outside the site.*

- 7.5.1. The wording of Condition No. 2(a) refers to Building No. 3. This building is located on the south-eastern corner of the site and is outside of Flood Zones A and B. As Building No. 3 is fully located within Flood Zone C, the applicant suggests that the PA may have intended to refer to Building No. 2, which is partially within Flood Zone B. I agree with the reasoning of the applicant as it relates to the building numbers. The revised SSFRA clearly shows the location of the Building No. 3 outside of Flood Zones A and B and only a portion of Building No. 2 remains within Flood Zone B.
- 7.5.2. I have reviewed the drawings submitted with the application, the SSFRA, and the addendum to the SSFRA. The original SSFRA showed a large portion of the eastern section of the site within Flood Zones A and B. The proposed Wastewater Pumping Station and the ESB substations were shown within Flood Zone B.
- 7.5.3. An addendum report to the SSFRA was submitted by the applicant in response to a request for further information (FI) from the PA. The applicant states that the addendum SSFRA was prepared to address the comments of the PA on foot of a meeting held between the parties. The hydrology presented in the original SSFRA was updated and a new hydraulic model was created. This resulted in the redefinition of the catchments for the River Tolka and the Northern and Southern Tributaries, (which were used in the original SSFRA). The peak flows for the Tolka and the tributaries were also revised and applied to the hydraulic model. Flood zones were then established from the updated model and were overlaid on the

proposed development layout. The revised flood zone extents are shown in Figure 3-4 of the addendum report and the Proposed Storm Water Drainage Layout – Drawing PACE-CSC-XX-XX-DR-C-0012 which was also submitted as FI.

- 7.5.4. The updated model significantly reduces the extent of the site within Flood Zones A and B. The addendum report concludes that only a limited area of Building No. 2 would be in Flood Zone B with the ESB substations and pumping station in Flood Zone C. None of the buildings would be in Flood Zone A. I note that the PA had no objection to the methodology applied to the revised hydraulic model in the addendum SSFRA, and were satisfied that the pumping station and the substations were located outside of Flood Zone B. The internal report from the Environment and Flooding Department of the PA notes that the revised SSFRA indicates that the *‘proposed development site is partially situated in Flood Zones A and B. The proposed ESB substations and wastewater pumping station are situated in Flood Zone C. The wastewater rising mains is partially situated in Flood Zones A and B. Building No. 2 is partially situated in flood Zone B as is the raised ground area on the river side of building No. 3. Such development in the flood zones will displace floodwaters and potentially increase flood risk elsewhere’*. The PA considered that the degree at which flood risk would be increased elsewhere as a result of the development had not been assessed and that compensatory measures were not included.
- 7.5.5. As noted above, the appeal suggests that the PA may have intended to refer to Building No. 2 instead of Building No. 3. A response to the appeal was submitted by the PA and requests that the Board consider the Planning Report and all supporting technical reports in the consideration of the appeal as these set out the basis for the conditions attached. The response did not address the grounds of appeal directly or clarify whether the reference to Building No. 3 was made in error.
- 7.5.6. I consider the argument made by the applicant to be reasonable. Building No. 3 is fully outside of the extent of Flood Zone B as are the electricity substations and the wastewater pumping station. Therefore, it is possible that the Condition No. 2 relates to Building 2, which partially extends into Flood Zone B. The report of the PA notes that the wastewater rising mains is partially situated in Flood Zones A and B. I have reviewed the drawings submitted with the application and the Proposed Foul Layout, Sheet 1 of 5, (Drawing No. PACE-CSC-XX-XX-DR-C-0013), shows the

layout and position of the wastewater rising mains and the wastewater pumping station. All the wastewater infrastructure would be located outside of Flood Zone B and on lands categorised as Flood Zone C, which is appropriate for 'Highly Vulnerable' development of this nature. However, it is proposed to bring a watermain into the site at the northern corner. This section of the site also shows a 'possible future link to development lands' on the adjoining site. The watermain would cross the river Tolka and would pass through Flood Zones A and B. The route is shown on drawing - Proposed Watermain Layout, Sheet 1 of 3, (Drawing No. PACE-CSC-XX-XX-DR-C-0007) which was submitted with the application. An outfall connection to the Tolka from the attenuation storage tank to the south of Building No. 2 also passes through Flood Zones A and B. It may be possible that the PA are referring to the watermain rather than the rising main in their report. However, this was not clarified in their response to the appeal.

7.5.7. I consider the attenuation tank and the outfall pipe to be 'water compatible' development and to therefore be appropriate for Flood Zones A and B. Watermains are not specifically listed as a development type in Table 3.1 of the Flood Risk Guidelines, which defines the vulnerability class of land uses and development types. However, the guidance notes that the list is not exhaustive and that '*uses not listed should be considered on their own merits*'. In this regard, the applicant is of the opinion that watermains should qualify as 'water compatible' as they are routinely placed in flood plains and beneath rivers. This is justified on the basis that they are located beneath ground, are not displacing any flood water and are completely sealed (as they are pressurised). Therefore, they cause no environmental risk as flood water cannot penetrate. In contrast, water and sewage treatment is mentioned in Table 3.1 under 'Highly Vulnerable' development. This is in recognition that pumping stations and water/wastewater treatment works are adversely affected if inundated by flooding causing disruption to businesses or properties and posing a significant environmental risk from the release of effluent or the contamination of a watercourse.

7.5.8. Development types listed as 'Highly Vulnerable' in Table 3.1 include, 'Essential infrastructure, such as primary transport and utilities distribution, including electricity generating power stations and sub-stations, water and sewage treatment, and potential significant sources of pollution (SEVESO sites, IPPC sites, etc.) in the

event of flooding'. The FRG state that the vulnerability of the development depends largely on 'the risks to people who will use the development, the effects of damage to buildings and structures that might be caused by flooding, and the potential environmental damage that could be caused arising from pollution caused by the development were it to flood.', (P. 69).

- 7.5.9. Based on the advice of the Guidelines on assessing the vulnerability of development, it is my view that a watermain can be categorised as essential infrastructure given its function. However, given the nature of the infrastructure, which is a sealed, pressurised pipe the most significant risk to people would be a lack of water should the pipe be damaged in a flood event. Section 2.11 of the FRG acknowledges that flood damage can have a detrimental impact on utilities such as water and electricity supply and that the flooding of pumping stations can result in loss of water supply over large areas.
- 7.5.10. I accept the applicant's argument that watermains should be considered to be water compatible as they are routinely placed in flood plains and beneath rivers and are sealed and pressurised. I also accept that the assertion that pumping stations and wastewater infrastructure would be more vulnerable than watermains given the potential for pollution during a flood event. On this basis, I am satisfied that the infrastructure passing through Flood Zones A and B would not represent highly vulnerable development.
- 7.5.11. Drawing Proposed Watermain Layout Sheet 1 of 3 – Drawing PACE-CSC-XX-XX-DR-C-0007 shows the route of the proposed watermain through Flood Zones A and B and the location of the Tolka crossing. The drawing refers to Irish Water Standard STD-W-33 for the river crossing. This detail is shown on drawing Watermain Details Sheet 2 of 2, PACE-CSC-XX-XX-DR-C-0022 and indicates that the watermain will cross under the bed of the river. Whilst I accept that a watermain can be classed as essential infrastructure due to its function, the nature of its construction and underground route through the flood zones would render it unlikely to be damaged in a flood event which would result in a disruption to service and/or the release of additional waters to contribute to a flood event. On this basis, I consider the watermain would represent an appropriate development in Flood Zones A and B. I also consider the outfall pipe to be acceptable by virtue of its function to discharge surface water to an existing watercourse as part of the overall surface water

management system. In consideration of the foregoing, I am satisfied that any infrastructure shown in Flood Zones A and B would be appropriate for their locations and would not result in additional flood risk to the subject site or to the surrounding lands.

7.5.12. Regarding raising the level of the lands, this consideration is most relevant if the PA were referring to Building No. 2 in the wording of the condition. Building No. 2 would be partially within Flood Zone B and its construction would accommodate a finished floor level (FFL) and appropriate freeboard to prevent any flood risk to the building itself. The PA were concerned that the applicant had not adequately assessed the potential impact of raising the ground levels in Flood Zone B on the adjacent lands through the displacement of flood waters. The applicant is satisfied that they have followed the principles of the FRG by matching the land use to the appropriate flood zone and that there is no requirement within the FRG to determine the impact that infilling has on lands elsewhere. The grounds of appeal also note that the Guidelines recognise that where infilling is undertaken there could be an increased risk of flooding elsewhere and compensatory storage is required. However, this only applies to Flood Zone A. Reference is made to Page 29 of Appendix A of the Guidelines which states that, *'In general, level for level compensation should only be applied in areas where flood water is stored. Floodwater is stored in most natural and defended floodplains which are inundated in the 1% AEP event'*, the 1% AEP event being the definition of the extent of Flood Zone A. On this basis the applicant argues that the requirement of the PA to assess the impact of infilling in Flood Zone B is not required by the Guidelines and the condition should not be applied.

7.5.13. Section 4.11 of the SFRA sets out some recommendations for mitigation measures that can be put in place to manage flood risk. Point 4.11.2 relates to 'Ground levels, floor levels and building use' and acknowledges that, *'Modifying ground levels to raise land above the design flood level is a very effective way of reducing flood risk to the particular site in question. However, in most areas of fluvial flood risk, conveyance or flood storage would be reduced locally and could have an adverse effect on flood risk off site'*. Key criteria to be considered for such proposals include a provision that,

- development at the site must have been justified in the SFRA (for the Development Plan) on the existing unmodified ground levels,

- The FRA should establish the function provided by the floodplain. Where conveyance is a prime function then a hydraulic model will be required to show the impact of its alteration,
- Compensatory storage should be provided on a level for level basis to balance the total area that will be lost through infilling where the floodplain provides static storage,
- The provision of compensatory storage should be in close proximity to the area where the storage would be lost, (i.e. within the same flood cell),
- the land given over to storage must be land in flood zone B or C, and,
- the compensatory storage area should be constructed before land is raised.

7.5.14. The SFRA for the Development Plan accepts that infilling of land can be used to reduce flood risk within a site but also recognises that this approach could result in the loss of flood plain storage in the wider area. It is suggested that some sites can be re-landscaped to provide a sufficiently large development footprint to compensate for a loss of flood plain. However, in some cases compensatory storage may be required. Section 4.9 of the SFRA states that, *'Compensatory storage is to be provided to balance floodplain loss as a result of raising ground levels within Flood Zone A. The storage should be provided within the flood cell and on a level for level basis up to the 1% level.'* This would imply that compensatory storage is a specific requirement where the infilling of land occurs in Flood Zone A but may also be required in Flood Zone B.

7.5.15. The FRG also address the issue of infilling. Section 1.6 of Appendix A – Technical Appendices of the FRG states that among the recommended outputs for flood risk assessment is the *'likely impact of any displaced flood water on third parties caused by alterations to ground levels, reducing floodplain attenuation, impeding flood flow routes or raising flood embankments and the means of providing compensation for this loss of floodplain, where necessary'*. Section 3.3 of Appendix B of the Guidelines states that, *'In general, level for level compensation should only be applied in areas where flood water is stored. Floodwater is stored in most natural and defended floodplains which are inundated in the 1% AEP event'*.

- 7.5.16. Having reviewed the SFRA and the FRG, it is clear that the impact of displacing flood waters within a flood plain, either Flood Zone A or B, must be considered on the adjoining lands. Both the FRG and the SFRA are clear that compensatory storage is a specific requirement where development would occur or, result in a loss of storage in Flood Zone A.
- 7.5.17. I acknowledge the logical reasoning put forward by the PA that ultimately raising the levels of the site in Flood Zone B could reduce the overall storage within that flood plain and displace waters elsewhere. On this basis I consider that the wording of Condition 2(a) that should development raise the ground levels in Flood Zone B and displace flood waters in this area, that *'the onus is on the developer to prove that any infilling within the site has no additional flooding impact on lands outside the site'* to be reasonable.
- 7.5.18. In summary, I consider the wording of Condition 2(a) to relocate Building No. 3 with all relevant infrastructure outside Flood Zones A and B to be unnecessary as Building No. 3 and all 'Highly Vulnerable' infrastructure are already located outside of Flood Zones A and B. If it was the intention to refer to Building No. 2 instead of Building No. 3, I consider that Building No. 2 is classified as a 'Less Vulnerable' development which is appropriate for Flood Zone B. Therefore, it is not necessary to relocate the building. However, I accept the assertion of the PA that the applicant did not consider the impact of displacing flood waters from Flood Zone B to accommodate the development. Both the FRG and the SFRA are clear that Flood Risk Assessments must consider the displacement of flood waters as a result of developing on a fluvial flood plain. Whilst I consider the proposed development to be acceptable within the context of the site, I recommend that the wording of Condition 2(a) be amended to require the applicant to consider and assess whether the proposed development, which is partially within Flood Zone B, would increase the flood risk to adjoining lands through the displacement of flood storage for waters in the 0.1% AEP event and to provide mitigation measures within the site boundary if necessary.

7.6. Condition No. 2(b) states -

The applicant shall submit for the prior written agreement of the Planning Authority:

(b) A Development Management Justification Test as set out in Chapter 5 of DOEHLG / OPW publication 'The Planning System and Flood Risk Management, Guidelines for Planning Authorities and with reference to OPW flood mapping and Meath County Council's MapInfo flood mapping for the relevant area.

- 7.6.1. In their initial assessment of the application, the PA considered that the development (or parts thereof) was 'highly vulnerable' and was at risk from flooding as it was partially located in Flood Zones A and B. To assess the appropriateness of the development the PA requested that a development management Justification Test was carried out as per Chapter 5 of the Flood Risk Guidelines. An addendum to the SSFRA was submitted by the applicant in response. The addendum report concluded that only a limited area of Building No. 2 would be in Flood Zone B with the ESB substations and pumping station in Flood Zone C. Office use is classified as 'Less Vulnerable development' in the Flood Risk Guidelines. This type of development is appropriate in Flood Zones B and C but requires a Justification Test in Flood Zone A. The PA considered the ESB substation and sewage pumping station to be 'Highly Vulnerable development'. As the updated modelling demonstrates that these elements of the development are within Flood Zone C, a Justification Test is not required.
- 7.6.2. Section 4.8.3 of the SFRA for the MCDP states that 'Less vulnerable development includes retail, leisure, warehousing, technology, enterprise and buildings used for agriculture and forestry a comprehensive categorisation of land uses and vulnerability is provided in Table 5-1 on Page 35 (of the SFRA)'. Table 5-1 sets out the specific vulnerability of the proposed land use, coupled with the Flood Zone in which it lies to determine the need for the application of the Justification Test.
- 7.6.3. For Zoning Objective E1 – a Justification Test is required for Highly Vulnerable development in Flood Zone A or B and for Less Vulnerable development in Flood Zone A.
- 7.6.4. For Zoning Objective E3 - a Justification Test is required for Highly Vulnerable development in Flood Zone A or B and for Less Vulnerable development in Flood Zone A.

- 7.6.5. Tables 3.1 and 3.2 illustrate those types of development that would be appropriate to each flood zone and those that would be required to meet the Justification Test. Section 3.5 of the Guidelines notes that 'Less vulnerable' development can be considered to include retail, commercial and industrial uses and utilities infrastructure.
- 7.6.6. Based on the examples and development types put forward in Section 4.8.3 of the SFRA and in Section 3.5 of the Flood Risk Guidelines, I am satisfied that all development that would be categorised as 'Highly vulnerable' (i.e. substations and pumping station) would be located outside of Flood Zones A and B and that any development that would be within the flood zones constitute 'Less vulnerable' development. As noted above, Building No. 2 would be partially located in Flood Zone B and the watermain would pass through Flood Zones A and B.
- 7.6.7. Section 5.1 relates to the Application of the Justification Test in development management and states that, 'Where a planning authority is considering proposals for new development in areas at a high or moderate risk of flooding that include types of development that are vulnerable to flooding and that would generally be inappropriate as set out in Table 3.2, the planning authority must be satisfied that the development satisfies all of the criteria of the Justification Test as it applies to development management outlined in Box 5.1.'
- 7.6.8. The FRG are clear in setting out the circumstances that require a Justification Test. Table 3.2 states that 'Less vulnerable' development requires a Justification Test for proposals located in Flood Zone A but is considered to be 'Appropriate' in Flood Zone B. On this basis, I am satisfied that a Justification Test is not required for the development. I recommend to the Board that Condition No. 2(b) is removed.

8.0 AA Screening

- 8.1.1. The application was accompanied with an Appropriate Assessment Screening Report and a Natura Impact Statement (NIS). The NIS concluded that, *'Following the implementation of the mitigation measures outlined, the construction and operation of the proposed development will not result in direct, indirect or in-combination effects which would have the potential to adversely effect the qualifying interests/special conservation interests of the European sites screened in for NIS*

with regard to the range, population densities or conservation status of the habitats and species for which these sites are designated (i.e. conservation objectives).’.

8.1.2. I accept the findings of the PA who were satisfied that the Screening Report and NIS were of sufficient detail to assess the development and who concluded that, *‘the proposed development (entire project) either by itself or in-combination with other plans and developments in the vicinity would not be likely to have significant effects on European Site(s)’.* I have considered the impact of the proposal as they relate to AA regarding the provision of additional flood storage areas within the site. I am satisfied that the final Construction and Environmental Management Plan can be adapted to accommodate any additional works within the site without presenting any additional impacts on the conservation objectives of the European Sites within the zone of influence of the subject site. I have carried out a Screening Assessment of the development, the results of which are contained in Appendix 1 of this report.

8.1.3. Condition No. 2(a) requires that the *‘location of building No. 03 as indicated on the site layout plan shall not be permitted. Prior to the commencement of development on site the applicant/developer shall submit for the prior written agreement of the Planning Authority:*

b) a revised site layout plan relocating Building No. 3 within the site boundary together with all relevant infrastructure outside Flood Zones A and B. The lands within Flood Zones A and B within the site should not be artificially raised to ensure that there is no increase in potential flood risk elsewhere outside the site. Otherwise, the onus is on the developer to prove that any infilling within the site has no additional flooding impact on lands outside the site.

8.1.4. Under Section 139(1)(c) of the Planning and Development Act 2000 (as amended), hereinafter referred to as the ‘Planning Act’, the Board may consider an appeal against conditions attached to a grant of permission where, *‘the Board is satisfied, having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as it had been made to it in the first instance would not be warranted’.* As Condition No. 2 could result in additional development as defined under Part 3(1) of the Planning Act, it is subject to screening for appropriate assessment under Section 177U of the Planning Act.

- 8.1.5. Having carried out Appropriate Assessment screening (Stage 1) of the project (included in Appendix 1 of this report), it has been determined that the project may have likely significant effects on North Dublin Bay SAC (site code 000206), South Dublin Bay and River Tolka Estuary SPA (site code: 004024), North Bull Island SPA (site code 004006) and North-West Irish Sea SPA (site code 004236) in view of the sites' conservation objectives and qualifying interests.
- 8.1.6. An Appropriate Assessment (Stage 2) is therefore required of the implications of the project on the qualifying interests of the SPA in light of their conservation objectives. The possibility of likely significant effects on other European sites has been excluded on the basis of the nature and scale of the project, separation distances, and the absence of meaningful pathways to other European sites.

8.2. **Stage 2 – Appropriate Assessment**

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on the North Dublin Bay SAC (site code 000206), South Dublin Bay and River Tolka Estuary SPA (site code: 004024), North Bull Island SPA (site code 004006) and North-West Irish Sea SPA (site code 004236) in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.

Following an examination, analysis and evaluation of the NIS all associated material submitted, I consider that adverse effects on site integrity of the North Dublin Bay SAC (site code 000206), South Dublin Bay and River Tolka Estuary SPA (site code: 004024), North Bull Island SPA (site code 004006) and North-West Irish Sea SPA (site code 004236) can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

- Detailed assessment of all aspects of the proposed development that could result in significant effects or adverse effects on European Sites.
- 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.

8.2.1. In carrying out an Appropriate Assessment (Stage 2) of the project, I have assessed the implications of the project on the North Dublin Bay SAC (site code 000206), South Dublin Bay and River Tolka Estuary SPA (site code: 004024), North Bull Island SPA (site code 004006) and North-West Irish Sea SPA (site code 004236) in view of the sites' conservation objectives. I have had regard to the applicant's Natura Impact Statement and all other relevant documentation and submissions on the case file. I consider that the information included in the case file is adequate to allow the Board to carry out of an Appropriate Assessment.

8.2.2. Following the Appropriate Assessment (Stage 2), it has been concluded that the project, individually and/ or in-combination with other plans or projects would not adversely affect the integrity of the North Dublin Bay SAC (site code 000206), South Dublin Bay and River Tolka Estuary SPA (site code: 004024), North Bull Island SPA (site code 004006) and North-West Irish Sea SPA (site code 004236) in view of the sites' conservation objectives and qualifying interests.

9.0 Recommendation

I recommend that Condition 2(a) is **Amended**.

I recommend that Condition 2(b) is **Removed**.

10.0 Reasons and Considerations

- 10.1. Having regard to the nature of the conditions which are the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of Section 139 of the Planning and Development Act, 2000, as amended to :

Condition No. 2(a)

To **AMEND** the wording of Condition No. 2 (a) to read –

Prior to the commencement of development, the applicant/developer shall submit for the written agreement of the Planning Authority, compensatory flood storage mechanisms for the displacement of flood waters in the 0.1% AEP event as a result of the development. The mitigation measures shall be adequately sized for the volume of flood storage required, taking account of the relevant allowance for climate change.

Reason: In the interest of protection of the environment and to prevent additional flood risk to adjoining land.

The amended condition is recommended for the following reasons and considerations.

The wording of the original condition referred to Building No. 3 which is outside of Flood Zone B. Having regard to the location of Building No. 2, partially within Flood Zone B, which has the potential to reduce flood storage from fluvial flood events in the 0.1% AEP through displacement, it is considered appropriate that the impact of the proposed development on adjoining lands through loss of flood plain is assessed and mitigated against, as set out in Section 4.11 of the *Strategic Flood Risk Assessment and Management Plan for the Meath County Development Plan 2021-2027* and in Section 1.6 of Appendix A of the *Planning System and Flood Risk Management Guidelines for Planning Authorities*.

Condition No. 2(b)

To **REMOVE** Condition 2(b) for the following reasons and considerations.

Having regard to the provisions of Tables 3.1 and 3.2 of the *Planning System and Flood Risk Management Guidelines for Planning Authorities*, which categorises the proposed development as 'Less Vulnerable' development and considers it to be 'Appropriate' for its location in Flood Zone B, a development management Justification Test is not required.

Section 4.8.3 of the *Strategic Flood Risk Assessment and Management Plan for the Meath County Development Plan 2021-2027* states that a Justification Test is not required for 'Less Vulnerable' development for Zoning Objectives E1 and E3, which relate to the subject site.

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

Elaine Sullivan
Planning Inspector

12th of February 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320091-24		
Proposed Development Summary	<p>The construction of three office buildings with a cumulative gross floor area (GFA) of 13,729 sq.m. Surface car parking for 275 cars and 280 bicycles. The provision of a 4-arm signalised junction replacing the existing Pace roundabout to include a new northern arm with segregated cycleway and footpath to provide access to the site.</p> <p>Upgrade works to the R157 and M3 Parkway access road to facilitate junction improvements.</p> <p>Connections to the public mains water and foul water services and a surface water management system across the site.</p> <p>Three electricity substations and one wastewater pumping station would be installed as well as all internal roads and ancillary development such as landscaping and public lighting.</p>		
Development Address	Bennetstown, Pace, Dunboyne, Co. Meath.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes X	Tick if relevant and proceed to Q2.
		No	Tick if relevant. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Schedule 5, Part 2, Class 10(b)(iv) - Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, "business district" means a district within a city	Proceed to Q3.

		or town in which the predominant land use is retail or commercial use.)	
No			Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X	Class 10(b)(iv) - Urban development which would involve an area greater than 20 hectares – the subject site has an area of 4.665 hectares.	Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Class 10(b)(iv) - Urban development which would involve an area greater than 20 hectares – the subject site has an area of 4.665 hectares.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No		Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes	X	Screening Determination required

Inspector: _____ Date: _____

Form 3 - EIA Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference	ABP-320091-24	
Development Summary	<p>The construction of three office buildings with a cumulative gross floor area (GFA) of 13,729 sq.m. Surface car parking for 275 cars and 280 bicycles. The provision of a 4-arm signalised junction replacing the existing Pace roundabout to include a new northern arm with segregated cycleway and footpath to provide access to the site.</p> <p>Upgrade works to the R157 and M3 Parkway access road to facilitate junction improvements.</p> <p>Connections to the public mains water and foul water services and a surface water management system across the site.</p> <p>Three electricity substations and one wastewater pumping station would be installed as well as all internal roads and ancillary development such as landscaping and public lighting.</p>	
	Yes / No / N/A	Comment
1. Was a Screening Determination carried out by the PA?	Yes	The PA determined that a sub-threshold EIS was not required for the development.
2. Has Schedule 7A information been submitted?	Yes	Schedule 7 and Schedule 7A information was submitted in the Environmental Impact Assessment Screening Report.
3. Has an AA screening report or NIS been submitted?	Yes	An AA Screening Report and NIS were submitted.

4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No		
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	SEA and AA were undertaken in respect of the Meath County Development Plan 2021-2027 A Site Specific Flood Risk Assessment, Ecological Impact Assessment, Outline Construction Environmental Management Plan and Resource and Waste Management Plan were submitted with the application.	
B. EXAMINATION	Yes/ No/ Uncertain	<p>Briefly describe the nature and extent and Mitigation Measures (where relevant)</p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p> <p>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</p>	<p>Is this likely to result in significant effects on the environment?</p> <p>Yes/ No/ Uncertain</p>
This screening examination should be read with, and in light of, the rest of the Inspector's Report attached herewith			
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	Yes	The application site is a greenfield site approximately 1.7km to the north of Dunboyne. The site currently comprises agricultural land and hedgerows with a 10kv overhead line passing through the western corner. The topography of	No - The landscape will be permanently altered by the development. However, the site has no specific designations to

		<p>the site slopes towards the river Tolka to the north of the site.</p> <p>The subject site and the wider lands form part of a masterplan area that is yet to be developed.</p>	<p>preserve it and it is zoned for development in the Development Plan therefore the changes would be 'Not significant'.</p>
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>The appearance of the greenfield site would be permanently altered by the development and the land use would change from agricultural to commercial.</p>	<p>No – The development would result in noticeable changes to character of the site but would not result in significant consequences for the receiving environment. The land is zoned for development and is not subject to any specific designations to preserve it. Therefore, the changes would not be significant.</p>
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>No</p>	<p>The development will necessitate the stripping of topsoil and the excavation of subsoils. It is intended to use these soils where feasible for landscaping on the site. Excess spoil or soil will be brought to a licenced facility. Construction materials will be typical for an urban development of this nature and scale. The loss of natural resources because of the development are not regarded as significant in nature. The OCMP</p>	<p>No</p>

		states that materials will be re-used where possible. The buildings are designed to comply with energy efficiency requirements in the Building Regulations and 180 sq. m. of solar photo-voltaic panels will be installed.	
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Yes	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for construction sites. Any impacts would be local and temporary in nature and the implementation of the standard construction practice measures outlined in the OCEMP and the Resource and Waste Management Plan for Construction (RWMP) would satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Yes	Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances and give rise to waste for disposal. The use of these materials would be typical for construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature, and with the implementation of the standard measures outlined in the OCEMP and the RWMP, the project would satisfactorily mitigate the potential impacts. Operational waste would be managed through a waste management plan to obviate potential environmental impacts. Foul water will discharge to the public network. Other operational impacts in this regard are not anticipated to be significant.	No

1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	Yes	Operation of the standard measures listed in the OCEMP will satisfactorily mitigate emissions from spillages during construction and operation. The operational development will connect to mains services and discharge surface waters only after passing through fuel interceptors and SUDS. Surface water drainage will be separate to foul services within the site. A Natura Impact Statement was prepared for the application and contains mitigation measures to prevent the release of pollutants into surface waters from the site.	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Yes	There is potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised and short term in nature, and their impacts would be suitably mitigated by the operation of standard measures listed in the OCEMP. No operational impacts in this regard are anticipated.	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Yes	Construction activity is likely to give rise to dust emissions and surface water runoff. Any potential impacts would be localised and temporary in nature. Measures to manage dust levels are set out in the OCEMP.	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	No significant risk is predicted having regard to the nature and scale of the development. All standard health and safety procedures will be implemented during construction and operation. The site is partially within Flood Zones A and B. The Site-Specific Flood Risk Assessment contains mitigation measures to address flood risk on the site. Any risk arising from demolition and construction will be localised and temporary	No

		in nature. There are no Seveso/COMAH sites in the vicinity.	
1.10 Will the project affect the social environment (population, employment)	Yes	The proposed development is commercial in nature and would provide opportunities for local employment during the construction and operational phases.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	Yes	Whilst the development is located in a Masterplan area which is undergoing development, it is a stand-alone project and has been designed to be self-contained.	No
2. Location of proposed development			
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: <ul style="list-style-type: none"> - European site (SAC/ SPA/ pSAC/ pSPA) - NHA/ pNHA - Designated Nature Reserve - Designated refuge for flora or fauna - Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	Yes	A Screening Report for Appropriate Assessment and a Natura Impact Statement were prepared for the development. A hydrological pathway was identified from the site to the European Sites located in Dublin Bay via the Tolka River which discharges to Dublin Bay. The NIS concluded that the proposed development will not adversely affect the integrity of these European sites.	No
2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?	No	Surveys carried out for the Ecological Impact Assessment (EclA) found no evidence of birds of conservation importance, no rare or threatened plants were noted or previously recorded, no amphibians were noted and no resting or breeding places of mammals of conservation importance were noted on the site.	No

		Bats were noted foraging on the site during the site visits. No bats were noted roosting on the site although opportunities for roosting may exist in a tree line to be removed. The EcIA contained a full set of mitigation measures to prevent significant impacts on protected, important or sensitive species.	
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No	The subject site has no designations that relate to landscape, culture or archaeology. There are no protected structures located on or adjacent to the subject site and no protected views or prospects are listed in the MCDP. An Archaeological Impact Assessment was carried out and identified two sites which are on the Record of Monuments and Places (RMP) and the Sites and Monuments Record (SMR) – ME050-057 – Excavation and ME050-058 – Burnt Mound. Mitigation measures in the report recommend that soil stripping is monitored by a suitably qualified archaeologist.	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No	The site is a greenfield agricultural site. The River Tolka flows through a portion of the site and is to the north of the main construction area. Mitigation measures to prevent impacts are set out in the NIS accompanying the application the OCEMP and the surface water management plan for the development.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	A Site-Specific Flood Risk Assessment (SSFRA) was carried out for the development. The site is partially within Flood Zones A and B. Mitigation measures to prevent additional flood risk are contained in the SSFRA. The surface water management plan for the site would attenuate and discharge water at a greenfield flow rate to	No

		the River Tolka and result in additional flood risk to nearby watercourses.	
2.6 Is the location susceptible to subsidence, landslides or erosion?	No		No
2.7 Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	Yes	The site lies to the west of the M3 (junction 5) and to the north of the Dunboyne By-pass (R157). The M3 Parkway and rail station are located to the south of the site. A Traffic Impact Assessment (TIA) was prepared for the development and concluded that the existing road network has capacity for the development and that any impacts would be mitigated through the junction improvement works proposed.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	No	There are no sensitive land uses near the site.	No
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	Yes	The subject site forms part of a wider Masterplan development area. There are no extant permissions for any other sites in the Masterplan area. The construction practices outlined in the OCEMP will mitigate against potential cumulative impacts with adjoining development.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No		No
3.3 Are there any other relevant considerations?	No		
C. CONCLUSION			

No real likelihood of significant effects on the environment.	X	EIAR Not Required
Real likelihood of significant effects on the environment.		EIAR Required

D. MAIN REASONS AND CONSIDERATIONS

EG - EIAR not Required

Having regard to: -

1. the criteria set out in Schedule 7, in particular
 - (a) the limited nature and scale of the proposed commercial office development, in an area zoned for development and in a designated mixed-use Masterplan area which is served by a national and regional road network, a mainline rail station and public infrastructure
 - (b) the absence of any significant environmental sensitivity in the vicinity, and the location of the proposed development outside of the designated archaeological protection zone
 - (c) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended)
2. the results of other relevant assessments of the effects on the environment submitted by the applicant, i.e. Screening for Appropriate Assessment, Natura Impact Assessment, Ecological Impact Assessment and Site-Specific Flood Risk Assessment.
3. the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment, including measures identified to be provided as part of the Outline Construction Management Plan, the Resource and Waste Management Plan, the Engineering Services Report and the Natura Impact Statement.

The Board concluded that the proposed development would not be likely to have significant effects on the environment, and that an environmental impact assessment report is not required.

Inspector _____

Date _____

Approved (DP/ADP) _____

Date _____

Appendix 1: Appropriate Assessment – Stage 1 and Stage 2

Appropriate Assessment Stage 1 Screening Determination

Description of the Project

I have considered the proposed office development in light of the requirements of section 177U of the Planning and Development Act 2000, as amended.

Subject Site

The subject site is a greenfield site to the West of the M3 (Junction 5) and north of the Dunboyne Bypass (R157) in the townland of Bennettstown, Co. Meath. The site has an area of approximately 2.9 hectares. The Tolka river flows to the north-east of the site. The site rises from northeast southwest from 71.5 metres to 275 metres ODI. There is no public storm drain within the immediate area off the site and there are no water courses crossing the site. The M3 Parkway car park is located to the south of the site and on the opposite side of the R 157. The M3 is located to the east. There is some dispersed rural housing to the north-east of the site at Pace. Dunboyne town centre is approximately 2.5 km to the south-west of the site. The Avoca retail and café is approximately 1.8km to the north-east of the site with Kilsaran Head Office and campus directly to the north.

The subject site is not located in or adjacent to any European sites and is not connected to or necessary for the management of any European site.

Project

The project seeks the construction of three office buildings with a cumulative gross floor area (GFA) of 13,729 sq. m. ranging in height from 3 to 4- storeys. Surface car parking for 275 cars and 280 bicycles. The provision of a 4-arm signalised junction replacing the existing Pace roundabout to include a new northern arm with segregated cycleway and footpath that would provide access to the site. Upgrade works to the R157 and M3 Parkway access road to facilitate junction improvements. Connections to the public mains water and foul water services and a surface water management system across the site. Three electricity substations and one wastewater pumping station would be installed as well as all internal roads and ancillary development such as landscaping and public lighting.

Submissions and Observations

No third-party submissions were made to the planning authority. Submissions were received from four prescribed bodies, the NTA, Uisce Éireann, TII and the Department of Housing Government

and Local Heritage. No issues were raised that relate to the potential impact of the proposal on any European Site.

An Appropriate Assessment Screening Report and Natura Impact Statement was submitted with the application. The planning authority undertook an appropriate assessment of the project. The applicant's NIS was relied upon, and it was concluded that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites, in view of the conservation objectives.

Potential Impact Mechanisms from the Project

The subject site is not located within, or directly adjacent to, any Natura 2000 sites. The closest European sites to the development are,

- Rye Water Valley/Carlton SAC (Site Code – 001398) – approximately 5.9km to the south-west of the site,
- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) – approximately 19km to the south-east of the site.

The applicant has applied the source-pathway-receptor model in determining possible impacts and effects of the development. The proposed development will not result in any direct effects on any European site. An indirect hydrological pathway was identified in the Screening Report from the site to Dublin Bay via the River Tolka. The river runs to the north of the main construction area of the site and intersects with the redline area where it extends northwards towards Pace to include the water supply infrastructure. The Screening Report notes that the Tolka River represents a weak hydrological link between the subject site and the European sites located within Dublin Bay, namely South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SAC, North Bull Island SPA and North-West Irish Sea SPA.

Table 2 of the Screening Report considered the potential impacts of the development on the closest European sites and on those with a connection to the site. There is a potential for indirect impacts during the construction phase from,

- Surface water pollution (silt/ hydrocarbon/ construction related) from construction works resulting in changes to environmental conditions such as water quality / habitat degradation.
- Emissions to land, water or air.

There is a potential for indirect impacts during the construction phase from,

- Surface water pollution in the form of silt/ hydrocarbon pollutants in uncontrolled storm and surface water runoff.

Where an ecological / hydrological pathway exists, indirect impacts could negatively affect qualifying interests, species and habitats, that rely on high water quality.

European Sites

The closest European site is the Rye Water Valley/Cartron SAC (Site Code – 001398) which is approximately 5.9km to the south-west of the site overland. There is no hydrological pathway between the sites and no ecological pathway exists. No potential impacts are foreseen in the Screening Report and the construction and operation of the proposed development will not impact on the conservation objectives of the site.

The Appropriate Assessment Screening Report (AASR) identifies five European sites in the zone of influence of the project (Table 1, pg. 16). These are South Dublin Bay SAC (site code: 000210), North Dublin Bay SAC (site code 000206), South Dublin Bay and River Tolka Estuary SPA (site code: 004024), North Bull Island SPA (site code 004006) and North-West Irish Sea (site code 004236).

Table 2 of the AASR lists the qualifying interests (QIs)/ special conservation interests (SCIs) and the conservation objectives for the European sites listed above. The AASR identifies (a direct) hydrological between the project and the European sites. The pathways are associated with:

- Surface water run-off from the project via the Tolka River and in turn to the European sites in Dublin Bay.

Table 6 presents a summary of the impact assessment of the project on South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA and North-West Irish Sea SPA, indicating that there is potential for likely significant effects associated with and changes in water quality and/ or resource.

The AA screening concludes: *'Acting on a strictly precautionary basis an NIS is required in respect of the effects of the project on South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA and North-West Irish Sea SPA, because it cannot be excluded on the basis of best objective scientific information following screening, in the absence of control or mitigation measures that the plan or project individually and or in combination with other plans or projects will have a significant effect on the named European sites'.*

Effect Mechanisms

Having regard to the characteristics of the project in terms of the site's features and location and the project's scale of works, I consider the following impacts and effect mechanisms require examination for implications for a likely significant effect on five European sites, South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA and North-West Irish Sea SPA.

A. Surface water pollution during the construction phase.

European Sites at Risk

Table 1: European Sites at risk from impacts of the proposed project

Effect mechanism	Impact pathway/ Zone of influence	European Site(s)	Qualifying/ Conservation interest features at risk
A. Surface water pollution during construction phase.	Impact via an indirect hydrological pathway.	South Dublin Bay SAC (site code: 000210)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]
A. Surface water pollution during construction phase.	Impact via a direct hydrological pathway.	North Dublin Bay SAC (site code 000206)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] <i>Petalophyllum ralfsii</i> (Petalwort) [1395]
A. Surface water pollution during construction phase.	Impact via a direct hydrological pathway.	South Dublin Bay and River Tolka Estuary SPA (site code: 004024)	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149]

			Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] Wetland and Waterbirds [A999]
A. Surface water pollution during construction phase.	Impact via a direct hydrological pathway.	North Bull Island SPA (site code 004006)	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999]
A. Surface water pollution during construction phase.	Impact via a direct hydrological pathway.	North-West Irish Sea (site code 004236).	Red-throated Diver (<i>Gavia stellata</i>) [A001] Great Northern Diver (<i>Gavia immer</i>) [A003] Fulmar (<i>Fulmarus glacialis</i>) [A009] Manx Shearwater (<i>Puffinus puffinus</i>) [A013] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Shag (<i>Phalacrocorax aristotelis</i>) [A018] Common Scoter (<i>Melanitta nigra</i>) [A065]

			Little Gull (<i>Larus minutus</i>) [A177] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] Herring Gull (<i>Larus argentatus</i>) [A184] Great Black-backed Gull (<i>Larus marinus</i>) [A187] Kittiwake (<i>Rissa tridactyla</i>) [A188] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] Little Tern (<i>Sterna albifrons</i>) [A195] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200] Puffin (<i>Fratercula arctica</i>) [A204]
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Identification of likely significant effects on the European site(s) 'alone'

Table 2: Could the project undermine the Conservation Objectives 'alone'					
European Site and qualifying feature South Dublin Bay SAC (site code: 000210)	Conservation objective	Could the conservation objectives be undermined (Y/ N)?			
		Effect A	Effect B	Effect C	Effect D
Habitats and species listed in Column 4 of Table 1 above.	<i>To maintain the favourable conservation condition of the qualifying interests of the SAC</i>	N			
European Site and qualifying feature North Dublin Bay SAC (site code 000206)	Conservation objective	Could the conservation objectives be undermined (Y/ N)?			
		Effect A	Effect B	Effect C	Effect D
Habitats and species listed in	<i>To maintain or restore the favourable conservation</i>	Y			

Column 4 of Table 1 above.	<i>condition of the qualifying interests of the SAC</i>				
European Site and qualifying feature South Dublin Bay and River Tolka Estuary SPA (site code: 004024)	Conservation objective	Could the conservation objectives be undermined (Y/ N)?			
		Effect A	Effect B	Effect C	Effect D
Habitats and species listed in Column 4 of Table 1 above	<i>To maintain or restore the favourable conservation condition of the qualifying interests of the SAC</i>	Y			
European Site and qualifying feature North Bull Island SPA (site code 004006)	Conservation objective	Could the conservation objectives be undermined (Y/ N)?			
		Effect A	Effect B	Effect C	Effect D
Habitats and species listed in Column 4 of Table 1 above.	<i>To maintain or restore the favourable conservation condition of the qualifying interests of the SAC</i>	Y			
European Site and qualifying feature North-West Irish Sea (site code 004236).	Conservation objective	Could the conservation objectives be undermined (Y/ N)?			
		Effect A	Effect B	Effect C	Effect D
Habitats and species listed in Column 4 of Table 1 above.	<i>To maintain or restore the favourable conservation condition of the qualifying interests of the SAC</i>	Y			

Effect Mechanism A (surface water pollution during construction phase)

- Surface water run-off from the project to the Tolka River and in turn to the European sites.

Appropriate Assessment: Stage 1 Conclusion – Screening Determination

I have reviewed the European sites listed in the AASR and I am satisfied that the proposed development would not undermine the conservation objectives for the Qualifying Interests of the South Dublin Bay SAC (site code: 000210). The northern boundary of the SAC is defined by the South Bull Wall which forms a physical barrier between the SAC and the mouth of the River Liffey where it converges with the Irish Sea. The River Tolka outflows to Dublin Bay at East Wall and is separated from the Liffey by Dublin Port. Both water bodies are separated by Dublin Port and meet at a point to the east of Terminal 5 and to the north of the South Bull Wall. Given the physical

distance between the point of discharge of the Tolka and the end of the South Bull Wall, there is no opportunity for any surface water pollutants to enter the SAC and to undermine the conservation objectives of the SAC. In consideration of the location of the SAC to the south of the River Tolka's outfall to Dublin Bay and separated by the River Liffey and by the South Bull Wall which forms a physical barrier, I am satisfied that the construction and operation of the proposed development will not impact on the conservation objectives of the South Dublin Bay SAC and that it can be excluded from further examination.

In accordance with section 177U of the Planning and Development Act 2000 as amended, and on the basis of objective information, having carried out Appropriate Assessment screening (Stage 1) of the project, it has been determined that the project may have likely significant effects on North Dublin Bay SAC (site code 000206), South Dublin Bay and River Tolka Estuary SPA (site code: 004024), North Bull Island SPA (site code 004006) and North-West Irish Sea (site code 004236) in view of the sites' conservation objectives and qualifying interests. An Appropriate Assessment (Stage 2) is therefore required of the implications of the project on the qualifying interests of the SPA and SAC in light of their conservation objectives.

The possibility of likely significant effects on other European sites has been excluded on the basis of the nature and scale of the project, separation distances, and the absence of meaningful pathways to other European sites.

No measures intended to avoid or reduce harmful effects on European sites have been taken into account in reaching this conclusion.

Appropriate Assessment - Stage 2

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination, the following is an appropriate assessment of the implications of the proposed development of three office buildings with all associated development in view of the relevant conservation objectives of the European sites in Dublin Bay, including based on scientific information provided by the applicant

The information relied upon includes the following:

- Natura Impact Statement prepared by Altamar Marine & Environment Consultancy
- National Parks and Wildlife Service – Site Documents relating to each European site.
- Ecological Impact Assessment for the proposed Dunboyne North Business Park.

I am satisfied that the information provided is adequate to allow for Appropriate Assessment. I am satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures designed to avoid or reduce any adverse effects on the integrity of the European sites are included and assessed for effectiveness.

Submissions/observations

No submissions were received that related to potential impacts on European sites.

North Dublin Bay SAC (SC 000206):

Summary of Key issues that could give rise to adverse effects (from screening stage):

- (i) Water quality degradation during the construction phase through the release of uncontrolled surface waters.

See Table 2 of the NIS

Qualifying Interest features likely to be affected	Conservation Objectives	Potential adverse effects	Mitigation measures (As per Table 7 of the NIS)
Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-	<i>To maintain or restore the favourable conservation condition of the qualifying interests of the SAC through its attributes of Habitat area, distribution, structure, vegetative structure and composition.</i>	Loss of aquatic biodiversity through the introduction of silt and petrochemicals. Potential to impact on the distribution, number and range of the qualifying interests.	Good practice pollution control measures Application of industry standard controls, CEMP,

Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalophyllum ralfsii (Petalwort) [1395]			
South Dublin Bay and River Tolka Estuary SPA (SC 004024): Summary of Key issues that could give rise to adverse effects (from screening stage): (ii) Water quality degradation during the construction phase through the release of uncontrolled surface waters. See Table 2 of the NIS			
Qualifying Interest features likely to be affected	Conservation Objectives	Potential adverse effects	Mitigation measures (As per Table 7 of the NIS)
The Wintering birds, wetland and waterbird species listed as the qualifying interests of the SPA and the wetland habitat.	<i>To maintain the favourable conservation condition of the qualifying interests of the SAC through the attributes of population trend and distribution, prey biomass available, distribution of roosting areas, barriers to connectivity, disturbance, distribution of breeding and roosting areas and habitat area.</i>	Loss of aquatic biodiversity through the introduction of silt and petrochemicals. Potential to impact on the distribution, number and range of the qualifying interests.	Good practice pollution control measures Application of industry standard controls, CEMP,

North Bull Island SPA (SC 004006):**Summary of Key issues that could give rise to adverse effects (from screening stage):**

- (i) Water quality degradation during the construction phase through the release of uncontrolled surface waters.

See Table 2 of the NIS

Qualifying Interest features likely to be affected	Conservation Objectives	Potential adverse effects	Mitigation measures (As per Table 7 of the NIS)
The wildfowl, wading birds' waterfowl, wetland and waterbird species listed as the qualifying interests of the SPA and the wetland habitat.	<i>To maintain the favourable conservation condition of the qualifying interests of the SAC through the attributes of population trend and distribution, and habitat area.</i>	Loss of aquatic biodiversity through the introduction of silt and petrochemicals. Potential to impact on the distribution, number and range of the qualifying interests.	Good practice pollution control measures Application of industry standard controls, CEMP,

North-West Irish Sea SPA (SC 004236):**Summary of Key issues that could give rise to adverse effects (from screening stage):**

- (i) Water quality degradation during the construction phase through the release of uncontrolled surface waters.

See Table 2 of the NIS

Qualifying Interest features likely to be affected	Conservation Objectives	Potential adverse effects	Mitigation measures (As per Table 7 of the NIS)
Seabirds, Marine Birds, Wintering birds, and waterbird species listed as the qualifying interests of the SPA and the wetland habitat.	<i>To maintain or restore the favourable conservation condition of the qualifying interests of the SAC through the attributes of population size and trend, spatial distribution, barriers to connectivity, disturbance and habitat area.</i>	Loss of aquatic biodiversity through the introduction of silt and petrochemicals. Potential to impact on the distribution, number and range of the qualifying interests.	Good practice pollution control measures Application of industry standard controls, CEMP,

Assessment of issues that could give rise to adverse effects view of conservation objectives

(i) Water quality degradation – There is a potential for dust, silt and contaminated surface water runoff to enter the River Tolka and to impact on the water quality of the watercourse which flows to Dublin Bay. Deterioration of water quality from pollution of surface and/or ground water during the construction phases could result in changes to communities and vegetation and could impact on benthic communities and feeding and foraging opportunities.

Mitigation measures and conditions

A full suite of mitigation measures is set out in Table 7 of the NIS and in the Outline Construction & Environment Management Plan which accompanied the application. The measures are designed to protect water quality during the construction and operational phases. They include standard measures such as good construction practice in accordance with relevant guidelines and site-specific measures such as the installation of silt traps, stockpiling materials away from drains and appropriate storage of chemicals. Post construction measures require the treatment of surface waters with sediment and oil interceptor traps prior to discharge.

Mitigation measures to treat wastewater from the site during the operational stage relate to the onsite surface water treatment system which includes SuDS measures, infiltration, attenuation and restricted flow rates.

In-combination effects

I am satisfied that in-combination effects has been assessed adequately in the NIS. Plans and projects that could act in combination with the proposed development are detailed and assessed in Table 3 of the NIS. A review of recent projects permitted by the PA in the vicinity of the subject site were undertaken and the potential for in-combination effects was considered. The location of the site within a wider Masterplan area and the possibility of development occurring on several sites concurrently was also considered.

Following a review of extant permissions, it is concluded that no projects are currently underway that would result in in-combination effects on any European Sites. Each project permitted has been subject to Appropriate Assessment as part of the planning process. I am satisfied that given the distance between the subject site and the location of the extant permissions and permitted projects, that the mitigation measures proposed for the subject proposal would be sufficient to prevent any in-combination effects with other projects.

Findings and conclusions -

The applicant determined that following the implementation of mitigation measures the construction and operation of the proposed development alone, **or in combination with other plans and projects**, will not adversely affect the integrity of this European site.

Based on the information provided, I am satisfied that adverse effects arising from aspects of the proposed development can be excluded for the European sites considered in the appropriate Assessment. No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to prevent ingress of silt laden surface water. I am satisfied that the mitigation measures proposed to prevent adverse effects have been assessed as effective and can be implemented.

Reasonable scientific doubt

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

Site Integrity

The proposed development will not affect the attainment of the Conservation objectives of the North Dublin Bay SAC (site code 000206), South Dublin Bay and River Tolka Estuary SPA (site code: 004024), North Bull Island SPA (site code 004006) and North-West Irish Sea SPA (site code 004236). Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

Appropriate Assessment Conclusion: Integrity Test

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on the North Dublin Bay SAC (site code 000206), South Dublin Bay and River Tolka Estuary SPA (site code: 004024), North Bull Island SPA (site code 004006) and North-West Irish Sea SPA (site code 004236). in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.

Following an examination, analysis and evaluation of the NIS all associated material submitted, I consider that adverse effects on site integrity of the North Dublin Bay SAC (site code 000206), South Dublin Bay and River Tolka Estuary SPA (site code: 004024), North Bull Island SPA (site code 004006) and North-West Irish Sea SPA (site code 004236). can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

- Detailed assessment of all aspects of the proposed development that could result in significant effects or adverse effects on European Sites.
- 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.

Inspector: _____

Date: _____