



Development

Retention of a temporary motocross training facility, 5 year temporary permission for the temporary motocross club training facility, permission to convert existing container into a temporary site office/storage and all associated site works.

Location

Ballynabarney, Wingfield, Gorey, Co. Wexford

Planning Authority

Wexford County Council

Planning Authority Reg. Ref.

20240844

Applicant(s)

Dale Park Adventures Limited

Type of Application

Retention

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

James Carberry and others

Observer(s)

Department of Housing, Local Government and Heritage – DAU

Date of Site Inspection

13th February 2025

Inspector

F O'Donnell

Contents

1.0 Introduction.....	5
2.0 Site Location and Description.....	5
3.0 Proposed Retention and Proposed Development.....	6
4.0 Planning Authority Decision	7
4.1. Decision	7
4.2. Planning Authority Reports	9
4.3. Prescribed Bodies	10
4.4. Third Party Observations	10
5.0 Planning History.....	10
6.0 Policy Context.....	12
6.1. Development Plan.....	12
6.2. Natural Heritage Designations	20
6.3. EIA Screening	20
7.0 The Appeal	20
7.1. Grounds of Appeal	20
7.2. Applicant Response	26
7.3. Planning Authority Response	30
7.4. Observations.....	30
7.5. Further Responses	31
8.0 Assessment	31
9.0 Appropriate Assessment Screening.....	52
10.0 Water Framework Directive	52
11.0 Recommendation	53

12.0 Reasons and Considerations.....	54
Form 2 - EIA Preliminary Examination	60
Appendix 1 – Form 1: EIA Pre-Screening	

1.0 Introduction

1.1.1. The subject appeal relates to a repeat application on the subject appeal site. The first application, which was for

- *Retention of motorcycle training facility and track, permission to convert existing container into site office/storage, associated site works and services*

was Granted by the Local Authority subject to 12 no. conditions. This said application was subsequently appealed to An Bord Pleanála who refused permission for 1 no. reason relating to a requirement for a mandatory Environmental Impact Assessment in accordance with Class 11 a) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, which refers to '*All permanent racing and test tracks for motorised vehicles*' and the fact that the Board is precluded from considering a grant of permission in such instances, as per the provisions of Section 34 (12) of the Planning and Development Act, 2000, as amended.

1.1.2. The current application, which is the subject of this appeal is for

- *Retention of a temporary motocross training facility, 5 year temporary permission for the temporary motocross club training facility, permission to convert existing container into a temporary site office/storage and all associated site works*

and was similarly Granted by the Local Authority, subject to 13 no. conditions.

2.0 Site Location and Description

2.1. The subject appeal site is located in the rural townland of Ballynabarney, Wingfield, c.12 km to the northwest of Gorey Town. The site has a stated area of 3.13 hectares and comprises an existing motocross training facility, storage shed (steel shipping container) and an existing access track from the L3214 to the north. The site of the motocross facility was a former sand and gravel pit and is positioned c. 230 metres from the public road (L3214) to the north. The site of the motocross track is higher than the public road and associated access track. The land to the rear east, southeast, south and southwest of the motocross track, which previously comprised mature forestry, was felled in recent years. The nearest dwelling to the subject appeal site is located c. 158 metres to the northeast of the existing site office/

storage container. There are several existing dwellings located along the public road to the north, the nearest of which is estimated to be within c. 205 metres from the northern edge of the site of the motocross track. I estimate there are a minimum of 35 no. existing dwellings within 1 km radius of the centre of the motocross facility.

- 2.2. As per Map 1b of the Strategic Flood Risk Assessment (Volume 11) of the Wexford County Development Plan, 2022 to 2028, the access to the site and part of the northern boundary of the main site (northern part of motocross track) is shown to be within Flood Zone A.
- 2.3. Annagh Hill, the summit of which is located c. 1.4 km to the southeast of the subject appeal site, is listed as one of a number of Quiet Areas in Open Countryside, see Table 10-2 of Section 10.7 (Noise) of the Wexford County Development Plan, 2022 to 2028.
- 2.4. The site is located within the Uplands Landscape Character Area as set out in Volume 7 of the Wexford County Development Plan, 2022 to 2028.

3.0 Proposed Retention and Proposed Development

- 3.1. The proposed Retention comprises the following:

- Retention of a motocross club training facility for a temporary 5 year period,

The proposed development comprises the following:

- Permission to convert existing container into a temporary site office/storage. The existing container measures 12 metres in length, 2.4 metres in width, 2.4 metres in height and has a stated floor area of 26 sqm.
- All associated site works and services.
- Additional elements not directly referenced in the public notices but shown on either the proposed site layout drawings or referenced in the Application documentation include:
 - A tree-break sound barrier along the northern site/ field boundary.
 - Portaloo

- Informal car parking area to the north of the existing motocross track which is shown to accommodate 17 no. vehicles.

4.0 Planning Authority Decision

4.1. Decision

4.1.1. The Local Authority issued a Notification of Decision to GRANT permission on 6th September 2024 subject to 13 no. conditions.

Condition no's 3, 4, 6, 10, 11, 12 and 13 read as follows:

3. *The noise mitigation measures outlined in the Noise Impact Assessment Report date stamped 16/07/2024 shall be undertaken except where otherwise agreed with the Planning Authority.*

REASON: To ensure the proposed development accords with the permission and in the interests of the amenities of adjoining property.

4. *This permission for the use of the site as a motorcycle training facility is for a temporary period only and shall expire on 30/09/2029 and thereafter the motorcycle training activities shall cease unless a subsequent planning permission for further retention is granted by the Planning Authority or on Appeal to An Bord Pleanála.*

REASON: It is necessary in the interests of the proper planning and development of the area to limit the period of the motorcycle training facility permission in order to review the effect on properties in the area.

6. *The use of the site shall be restricted to:*

16.00 hours to 19.00 hours Wednesdays

11.00 hours to 16.00 hours Saturdays and Sundays.

REASON: In order to protect the residential amenities of property in the vicinity.

10. *Noise emanating from the development shall not exceed, when measured at the facing elevation (outside) of any dwelling in the area, a noise level of 55 dB(A) (Laeq 1 hour). The noise is also not to be*

impulsive in nature or have any tonal element which is 5 dB(A) above the adjacent frequencies.

REASON: To prevent noise pollution and in the interests of the proper planning and sustainable development of the area.

11. *Dust emission or total particulate release to the airborne environment shall not exceed 350mg/m² per day. Dust measurements shall be carried out, in real time, by direct reading airborne particle measuring equipment, capable of measuring for different dust particle sizes simultaneously, to include at a minimum Total Suspended Particles (TSP), and Particulate Matter <10 um (PM10) fractions. This equipment is to have the English EA MCERTS certification or equivalent, which ensures reliable and accurate recording of PM10 data.*

REASON: To prevent dust pollution and in the interests of the proper planning and sustainable development of the area.

12. *The proposed tree break shall be carried out before any motorcross training takes place; any trees planted in accordance with this condition which are removed, die, become severely damaged or diseased within two years of planting shall be replaced by trees of similar size and species to those originally required to be planted.*

REASON: As provided in Section 34(4)(e) of the Planning and Development Act 2000 (as amended) and in the interests of visual amenity.

13. *A noise survey and assessment programme shall be undertaken to assess the impact of noise emissions arising from the operation of the use as a motorcross club. The scope and methodology of this survey and assessment programme shall be submitted to, and agreed in writing with, the Planning Authority within 2 months of the date of the final grant of permission. The results obtained from the programme shall be submitted for review at quarterly intervals to the Planning Authority. The developer shall carry out any amendments and any*

additional mitigation measures required by the Planning Authority following this review to ensure that the noise limits are not exceeded.

REASON: In order to protect the residential amenities of property in the vicinity.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- The **Local Authority Planner** assessed that as the site is somewhat isolated and uses a disused sand quarry consideration should be given for a small motocross track. The Local Authority Planner further considered that, if permitted, strict hours of operation must be conditioned and a 5 year time limit for the use of the site as a motorcycle training facility in order to review the effect of the amenity of residential properties in the area. The Local Authority Planner recommended that Permission be Granted subject to condition(s) including a condition restricting the duration of the permission to a temporary 5 year period in order to review the effect of the amenity of residential properties in the area.
- The **Senior Planner** reviewed the recommendation of the Senior Executive Planner and, in doing so, raised concerns in relation to the noise that is generated from the site and noted that the Applicant has sought to propose mitigation measures. The Senior Planner stated he would not have full confidence in such noise mitigation measures and therefore required additional noise survey work to be carried out during the operation of the use and that additional mitigation be provided, if required. The Senior Planner noted that the Environment Department would accept this approach to review the operation of the subject appeal site. The condition to be added, as recommended by the Senior Planner, is condition no. 13 of the Notification of Decision to Grant permission, as issued. The Senior Planner also recommended that Condition no. 6 be amended, as per the Notification of Decision to Grant permission, as issued.

4.2.2. Other Technical Reports

- The **Chief Fire Officer** raised no objection to the proposed development but recommended that the Applicant's attention be drawn to Part III of the Building Control Regulations, 1997 to 2021 and the obligation to submit a Fire Safety Certificate Application for this development.
- The **Disability Access Officer** stated there is No Disability Access Certificate required.
- The **Senior Staff Officer** referred to Planning Enforcement Case 0034-2020 and stated that an Enforcement Notice issued on 1st October 2021.

4.3. Prescribed Bodies

- None

4.4. Third Party Observations

4.4.1. The Local Authority received a total of 10 no. observations in objection to the proposed development, primarily from local residents. Issues raised are similar to those referred to in the Local Authority decision and in the appeal but also included issues relating to Livestock Impacts, Depreciation in Property Values and Past Failures to Comply.

5.0 Planning History

5.1. Planning History on the subject appeal site

- **20220985 (Appeal Ref. No. ABP-315467-23):** Retention of motorcycle training facility and track, permission to convert existing container into site office/storage, associated site works and services. Permission was REFUSED on 5th January 2024 for the following reason:
 1. *The development for which retention permission is sought requires a mandatory Environmental Impact Assessment in accordance with Class 11 (a) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, which refers to 'All*

permanent racing and test tracks for motorised vehicles'. Section 34 (12) of the Planning and Development Act 2000, as amended, provides that a retention application cannot be considered by a planning authority for a development which would have required Environmental Impact Assessment (EIA). The Board, therefore, is precluded from considering a grant of planning permission in this case.

- **20220876:** Invalid or Withdrawn
- **20220725:** Invalid or Withdrawn

5.2. Relevant Planning History in the immediate area

Site located c. 35 metres to the west of the site access lane/ site access.

- **20240725:** Permission for a dwelling and associated site works. Permission was REFUSED on 16th August 2024 for 5 no. reasons relating to i) Flood Risk, ii) Non-Compliance with the provisions of Section 4.9.1 and Table 4-6 of the Development Plan in relation to Rural Housing Policy/ Criteria for one-off rural housing, iii) Requirement for a Natura Impact Statement/ Stage 2 Appropriate Assessment/ Impact on designated Natura 2000 Site (Slaney River Valley SAC), iv) Public Health Risk owing to the location of the proposed WWTS within a Flood Zone and v) Insufficient information submitted regarding the requirements set out under Table 3-3 (Volume 2) of the Development Plan/ no details in relation to a biodiversity tree or shrub planting proposal in order to provide the minimum requirement of 20% of the site area planted for biodiversity use.

5.3. Planning Enforcement History (On the subject appeal site)

- **Planning Enforcement Case 0034-2020:** Enforcement Notice issued on 1st October 2021.

6.0 Policy Context

6.1. Development Plan

6.1.1. The Wexford County Development Plan 2022-2028 is the operative Development Plan for the area. I have read the Development Plan and I have set out below what I consider to be the most relevant Chapters, Sections and Policies and Objectives.

- **Volume 1 (Written Statement): Wexford County Development Plan, 2022 to 2028**

6.1.2. Chapter 6 relates to Economic Development Strategy. Section 6.6 relates to Economic Development Strategy. Section 6.6.5 relates to Place. Section 6.7.6 relates to the Rural Economy. Section 6.7.6.6 relates to Commercial Development in Rural Areas and includes the following Objective which is considered to be of relevance:

- **Objective ED125:** *To consider the development of a replacement commercial use on a brownfield site in a rural area where an existing use has ceased and subject to compliance with Objective ED124 (iii), (iv) and (v). In general, the Planning Authority will not consider development which is people intensive (either employee or customer), the subdivision of the property or an increase in the intensity of activity on the site. The applicant will also be required to submit proposals to ensure that the proposal will have a positive impact on the visual character of the area.*

6.1.3. Chapter 7 relates to Tourism Development. Chapter 8 relates to Transportation Strategy.

6.1.4. Chapter 9 relates to Infrastructure Capacity. Section 9.11 relates to Flood Risk and Surface Water Management and includes the following Objectives:

- **Objective FRM07:** *To ensure that all future development proposals comply with the requirements of the Planning System and Flood Risk Management – Guidelines for Planning Authorities (DEHLG and OPW, 2009) and Circular PL2/2014, in particular through the application of the sequential approach and the Development Management Justification Test. In this regard, the Planning Authority will apply the precautionary principle and will screen all proposals for*

flood risk and will pay particular attention to lands within, along the edge or adjacent to Flood Zone A or B.

- **Objective FRM08:** *When potential flood risk is identified in either Flood Zone A, B or C, the Planning Authority will require the applicant to submit an appropriately detailed site-specific flood risk assessment. The assessment, which shall be carried out by a suitably qualified and indemnified professional, shall be appropriate to the scale and nature of the risk to the proposed development, and shall consider all sources of potential flood risk including, where relevant, fluvial, coastal, surface water/pluvial and groundwater sources. The assessment shall be fully in accordance with the requirements of the Planning System and Flood Risk Management Guidelines for Planning Authorities (DEHLG, OPW 2009) and the Strategic Flood Risk Assessment in Volume 11 of the County Development Plan and the requirements set out therein, and shall address climate change, residual flood risks, avoidance of contamination of water sources and any proposed site specific flood management measures.*

6.1.5. Chapter 10 relates to Environmental Management and includes the following Strategic Objectives:

- **Objective EM01:** *To ensure that proposed projects/developments comply with the requirements of EIA Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014, amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, and as transposed into Irish law under national legislation, including in Schedule 5 Part 1 and Part 2 of the Planning and Development Regulations 2001 (as amended). In accordance with Article 3 of Directive 2014/52/EU, where EIA is required the environmental impact assessments presented in the Environmental Impact Assessment Report (EIAR) shall identify, describe and assess in an appropriate manner, the direct, indirect and cumulative significant effects of a project on the following factors: population and human health; biodiversity (with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC); land, soil, water, air and climate, material assets, cultural*

heritage, and the landscape, and the interaction between the foregoing factors.

- **Objective EM02:** *To ensure that planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, will not have a significant effect on a European site, or where such a development proposal is likely or might have such a significant effect (either alone or in combination), the planning authority will, as required by law, carry out an appropriate assessment as per requirements of Article 6(3) of the Habitats Directive 92/43/EEC of the 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as transposed into Irish legislation. Only after having ascertained that the development proposal will not adversely affect the integrity of any European site, will the planning authority agree to the development and impose appropriate mitigation measures in the form of planning conditions. A development proposal which could adversely affect the integrity of a European site may only be permitted in exceptional circumstances, as provided for in Article 6(4) of the Habitats Directive as transposed into Irish legislation.*

6.1.6. Section 10.5 relates to Water Quality. Section 10.5.1 relates to Water Framework Directive. The following Water Quality Objectives are of relevance:

- **Objective WQ15:** *To ensure that development permitted would not negatively impact on water quality and quantity, including surface water, ground water, designated source protection areas, river corridors and associated wetlands, estuarine waters, coastal and transitional waters.*

6.1.7. Section 10.7 relates to Noise. A number of Potential Quiet Areas in the County are identified in Table 10-2. Annagh Hill, the summit of which is located 1.4 km to the southeast of the subject appeal site, is listed as one of a number Quiet Areas in the Open Countryside. The following Noise Objectives are considered to be of relevance to the subject proposal:

- **Objective N01:** *To promote the pro-active management of noise where it is likely to have significant adverse impacts on health and quality of life and*

support the aims of the Environmental Noise Regulations through national planning guidance and Noise Actions Plans.

- **Objective N03:** *To have regard to the Wexford County Council Noise Action Plan 2019-2023, in particular Appendix B Roadways Qualified for Noise Mapping, Appendix C Strategic Noise Maps and Appendix D Potential Noise Hotspots, in the preparation of future local area plans and to ensure that planning applications comply with the provisions and requirements of that plan, and any future revisions/update to it.*
- **Objective N04:** *To incorporate the aims of the present and future noise action plans into local area plans and in the assessment of planning applications to protect larger areas from road noise.*
- **Objective N05:** *To regulate and control activities likely to give rise to excessive noise, other than those activities which are regulated by the Environmental Protection Agency.*
- **Objective N06:** *To ensure new development does not cause an unacceptable increase in noise levels affecting noise sensitive properties. Proposals for new development with the potential to create excessive noise will be required to be accompanied by a construction and/or operation management plan to control such emissions.*
- **Objective N08:** *To require activities likely to give rise to excessive noise to install noise mitigation measures and monitors. The provision of a noise audit may be required where appropriate.*
- **Objective N012:** *To ensure that future developments are designed and constructed in accordance with best practice to minimise noise disturbances through good acoustic design.*

6.1.8. Chapter 11 relates to Landscape and Green Infrastructure. Section 11.6 relates to Landscape Character Assessment. The subject appeal site is located in the Uplands Landscape Character Area. As per Table 11.1 (Sensitivity Rating), the Uplands Landscape Character Area is indicated to have a High Sensitivity rating. Section 11.10 relates to Assessing Visual Impacts and includes Section 11.10.1 Visual Impacts and Section 11.10.2 Landscape and Visual Impact Assessment.

6.1.9. Section 11.12 relates to Green and Blue Infrastructure. The following Objective is considered to be of relevance:

- **Objective GI05:** *To ensure riparian buffer zones, a minimum of 10 metres in width (in some cases buffer zones of up to 50 metres may be appropriate), are created between all watercourses and any future development. In considering the appropriate width, the Council will have regard to 'Planning for Watercourses in the Urban Environment' (Inland Fisheries Ireland, 2020) and any future updated version of these guidelines.*

6.1.10. Chapter 13 relates to Heritage and Conservation. Section 13.2 relates to Natural Heritage. Section 13.2.8 relates to Freshwater Pearl Mussel. The following Natural Heritage Objectives are considered to be of relevance:

- **Objective NH01:** *To ensure the protection of all designated ecological sites (as detailed in Section 13.2.1 to 13.2.11) in relevant Local Area Plans and in the assessment of planning applications and promote the restoration of sites where required.*
- **Objective NH02:** *To protect and enhance the rich qualities of our natural heritage in a manner that is appropriate to its significance.*
- **Objective NH03:** *To promote biodiversity protection, restoration, and habitat connectivity both within protected areas and in the landscape through promoting the integration of green infrastructure and ecosystem services, including landscape, heritage and biodiversity and management of invasive and alien species in the plan making and development management processes.*
- **Objective NH04:** *To protect the integrity of sites designated for their habitat and species importance and prohibit development which would damage or threaten the integrity of these sites. Such sites include Special Areas of Conservation (SACs) and candidate SACs, Special Protection Areas (SPAs), Natural Heritage Areas (NHAs) and proposed NHAs, Nature Reserves, Refuges for Fauna and RAMSAR sites. To protect protected species wherever they occur.*

- **Objective NH05:** *In assessing planning applications located in and/or in proximity to Natura 2000 sites, whether hydraulically linked or otherwise linked or dependent (such as feeding, roosting or nesting grounds) to a designated site, regard shall be had to the detailed conservation management plans and data reports prepared by NPWS, where available, to the identified features of interest of the site, the identified conservation objectives to ensure the maintenance or restoration of the features of interests to favourable conservation status, the NPWS Article 17 current conservation status reports, the underlying site specific conditions, and the known threats to achieving the conservation objectives of the site.*
- **Objective NH08:** *To ensure that any plan/project and any associated works, individually or in combination with other plans or projects, are subject to Screening for Appropriate Assessment to ensure there are no likely significant effects on any Natura 2000 site(s) and that the requirements of Article 6(3) and 6(4) of the EU Habitats Directive are fully satisfied. Where a plan/project is likely to have a significant effect on a Natura 2000 site or there is uncertainty with regard to effects, it shall be subject to Appropriate Assessment. The plan/project will proceed only after it has been ascertained that it will not adversely affect the integrity of the site or where, in the absence of alternative solutions, the plan/project is deemed by the competent authority imperative for reasons of overriding public interest.*
- **Objective NH09:** *To ensure the protection of areas, sites and species and ecological networks/corridors of local biodiversity value outside the designated sites throughout the county and to require an ecological assessment to accompany development proposals likely to impact on such areas or species.*
- **Objective NH10:** *To ensure that traditional field boundaries, ponds or small woods which provide important ecological corridors, stepping stones or networks are protected. Where such features exist on land which is to be developed the applicant should demonstrate that the design of the development has resulted in the retention of these features insofar as is*

possible and that the existing biodiversity value of the site has been protected and enhanced.

- **Objective NH13:** *To ensure applications for development include proposals for native planting and leave a suitable ecological buffer zone between the development works and any areas or features of ecological importance. To minimise the removal of hedgerow and natural boundaries, and where hedgerows are required to be removed the applicant/ developer will be required to reinstate the hedgerows with a suitable replacement of native species.*
- **Objective NH19:** *To implement the requirements of EU Regulations 1143/2014 on the Prevention and Management of the Introduction and Spread of Invasive Alien Species and Regulation 49 and 50 of the EU (Birds and Natural Habitats) Regulations 2011(S.I. No. 477/2011), as amended.*
- **Objective NH25:** *To ensure that proposals for development do not lead to the spread or introduction of invasive species. If developments are proposed on sites where invasive species are or were previously present, the applicants will be required to submit a control and management program for the particular invasive species carried out by a competent and appropriately qualified expert as part of the planning process.*

6.1.11. Chapter 14 relates to Recreation and Open Space Strategy. The following Objectives are considered to be of relevance:

- **Objective ROS07:** *To promote an awareness/educational campaign on the wildlife and sensitivity of habitats to public recreational use in areas of high biodiversity such as upland areas, coastal areas, designated sites and ecological networks, including the provision of appropriate signage.*

6.1.12. Section 14.7 relates to Sports and Leisure Facilities where it is stated, *inter alia*, that: ‘Sport facilities should be located at accessible locations which are easy to get to, contribute to the local community’s identity and are socially inclusive, providing opportunities for meeting up. The development of sports facilities shall be accompanied by appropriate infrastructure including car parking, bicycle parking and changing rooms.’ It is further stated that: ‘Horse racing courses and equine sports facilities along with field sports such as GAA, rugby, soccer and other field sports are

considered appropriate in rural locations subject to traffic generation and safety and normal planning criteria.'

6.1.13. The following Sports and Leisure Facilities Objectives are considered to be of relevance to the subject proposal:

- **Objective ROS25:** *To facilitate a vibrant and active sports sector with increased participation levels, good quality sustainable facilities which are appropriate in scale and location and which provide opportunities for people to play an active role in sport.*
- **Objective ROS28:** *To support local community and sports groups in developing sports facilities and to consider the development of such facilities at appropriate locations in the county. These facilities, if possible, should be clustered with other community facilities such as community centres and open spaces to create multi user community hubs. The Planning Authority will ensure that sufficient land is zoned in local area plans to facilitate sports clubs and community organisations. The Council will ensure that land is available to accommodate proposals to future proof the expansion of clubs in urban settings and in areas where there is zoned land. Where a site is located away from the centre of a town or village, this will be considered on its merits and how the site would be accessible by walking and cycling. The development must also be appropriate to its location and is subject to compliance with the Habitats Directive and normal planning and environmental criteria.*
- **Objective ROS29:** *To ensure that the development of new sports facilities are universally accessible and accompanied by appropriate infrastructure including car parking, bicycle parking and changing rooms.*

6.1.14. Other additional Volumes of the Wexford County Development Plan, 2022 to 2028 which are considered to be of relevance to the subject proposal include:

- **Volume 2 (Development Management Manual), Volume 7 Landscape Character Assessment and Volume 11: Strategic Flood Risk Assessment**
- **Wexford County Council – Noise Action Plan, 2019 to 2023**

6.2. Natural Heritage Designations

6.2.1. The site is not located within or adjacent to a Natura 2000 site. The nearest Natura 2000 sites is as follows:

- Slaney River Valley SAC (Site Code 000781) located c. 6.7 km to the northwest.

6.2.2. Tomnafinnogue Wood (Site Code 001852), proposed Natural Heritage Area (pNHA) is located 6.6 km to the west of the subject appeal site.

6.3. EIA Screening

See Section 8.0 Assessment for commentary on this matter.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. 1 no. Third Party Appeal was received, as follows:

- James Carberry & Others, prepared by Appointed Planning Consultants with inputs from Appellants Appointed Ecologist and Appointed Acoustic Consultants.

7.1.2. The main issues raised in the Appeal can be summarised as follows:

- Failure to submit an Environmental Impact Assessment (EIA):
 - Part 2, Class 11 a) of Schedule 5 of the Planning and Development Regulations, 2001, as amended, states a mandatory EIA is required for '*all permanent racing and test tracks for motorised vehicles.*'
 - Based on this requirement, permission was previously Refused by An Bord Pleanála.
 - There is little difference between a racing and test track and a training facility. The Applicant has operated a 'training track' without planning permission for nearly 5 years. Despite a history of regular complaints,

the Applicant has had little to no consideration of impacts upon surrounding residents.

- The Appellant questions what will happen when the temporary period has lapsed and will further temporary permissions be granted which would essentially result in the track becoming a permanent facility.
- The Applicant is attempting to work around the requirement for an EIAR by using semantics.

- Failure to submit Environmental Impact Assessment Report (EIAR) Sub-threshold screening
 - The Local Authority should have sought a sub threshold EIA Screening Report. The Local Authority 2 page EIAR Pre-Screening report does not constitute a valid EIAR Screening or sub-threshold screening.
 - Schedule 7A of the Planning and Development Regulations outlines the information to be provided by the applicant/ developer for the purposes of screening sub-threshold development for Environmental Impact Assessment.
 - The Appellants submit the proposed development for retention should have been subject to EIAR Sub-Threshold Screening as per Article 92 of the Planning and Development Regulations, 2001, as amended.
- No Appropriate Assessment (AA) Screening:
 - The subject appeal site is hydrologically linked to the Slaney River Valley SAC.
 - There is potential for significant negative effects on the Slaney River Valley SAC as a result of the proposed development and associated activities. A Stage 2 Appropriate Assessment and Natura Impact Statement (NIS) is required.
 - The proposal has not been subject to a valid AA Screening as the determination of the Local Authority is not reasoned and does not consider surface water run-off from the development into adjoining streams which are hydrologically linked to the SAC.

- An appointed Ecologist acting on behalf of the Appellants submits that the Qualifying Interests (QI) of the Slaney River Valley SAC are dependent upon water quality and that having regard to the Conservation Objectives of said SAC there is potential for significant negative effects on the conservation objectives of certain QI, including:
 - 1096 Brook Lamprey (*Lampetra planeri*)
 - 1099 River Lamprey (*Lampetra fluviatile*)
 - 1106 Atlantic Salmon (the Derry River is stated to be an important tributary for Salmon spawning).

A decline on water quality is also stated to present a potential indirect effect on 1355 Otter (*Lutra Lutra*) as well as a potential for significant negative effects on:

- Old oak woodlands 91A0
- Alluvial woodlands 91E0

No Invasive Species Survey has been carried out and there are no biosecurity measures proposed.

- Ecological Impact:

The appointed Ecologist acting on behalf of the Appellants submits the following in relation to the potential Ecological Impact of the proposed development:

- A full Ecological Impact Assessment (EcoIA) should be carried out in the absence of an Environmental Impact Assessment (EIA).
- There is potential for rare or protected flora species to be present at the former Quarry site. Several notable Quarry sites in County Wexford have populations of rare and protected flora species. Owing to the unauthorised and ongoing activities on site, in order to allow the flora of the site time to recover, activities should cease for a minimum period of 3 years, before any new application is made or an EIAR is prepared for the development proposal.

- There is potential for the proposed development to impact negatively upon Protected Fauna Species including badgers (badger sett recorded in 2011 within 2km square of the site) and red squirrel (2015). A number of other prominent protected species which have been recorded within 10km of the site are listed. The Appellant submits these said species may also be negatively impacted upon.
- The potential Water Framework Directive impact of the proposed development needs to be considered. It is unclear whether a WFD Assessment was carried out as part of the Local Authority Assessment.
- The Appellants appointed Ecologist submits that the Local Authority Notification of Decision to Grant temporary permission appears to be contrary to certain policy and objectives of the Development Plan, in particular, Objective EM02, Objective NH01, Objective NH02, Objective NH04, Objective NH08, Objective NH09, Objective NH10, Objective NH19, Objective NH25, Objective GI05, Objective WQ07.
- Inconsistency in decision making
 - Under planning reg. ref. no. 20240725, permission was refused for a single dwelling house on a site directly abutting the proposed site entrance. The Appropriate Assessment Screening for that proposal, carried out by the Local Authority, considered the site to be located within a flood zone which drains into the Slaney River Valley SAC, that a Stage 2 Appropriate Assessment was required and that the development would require a Natura Impact Statement.
 - The Appellant submits the assessment of the current application is entirely at odds with the assessment of planning reg. ref. no. 20240725 which relates to the same watercourse.
 - The decision date for planning reg. ref. no. 20240725 was 16th August 2024 whereas the decision date for the subject application was 6th September 2024. No reference is made in the Planners Report to the refused application.

- The Appellant submits this represents a selective, negligent and inconsistent approach to the interpretation of the AA screening process.
- Refuse to consider
 - The Appellant considers the potential for in combination effects on the water quality of the Derry River within the SAC cannot be ruled out in the absence of mitigation measures and Appropriate Assessment and a Natura Impact Statement (NIS) is required.
 - The Appellant refers to Section 34 (12) of the Planning and Development Act, 2000, as amended and considers the Board/Commission should 'refuse to consider' the application as a stage 2 AA Screening/ Natura Impact Statement (NIS) is required. A refusal reason related to Section 34 (12) is recommended.
- Invalid planning application:
 - There is an existing container on site which requires planning permission both for retention and for permission to convert into an office. The existing container does not have planning permission. The planning fee does not include for the retention of the existing structure or its change of use. The application should therefore be deemed invalid on the basis of incorrect development description and incorrect fee. The Appellant quotes from Case Law in support of their assertion that the Application is invalid.
- Errors in Noise Assessment
 - The Noise Assessment is the same as that submitted under planning reg. ref. no. 20220985. The Appellant prepared an assessment of the previous noise assessment as part of the previous appeal, the details of which are considered to remain valid in this instance. The comments are prepared by an Acoustic Consultant and can be summarised as follows:
 - The conclusions are unreliable owing to a number of technical errors contained in the Noise Impact Assessment.

- The closest residents are excluded from the nearest noise sensitive receptors.
- Incorrect noise limits are specified.
- There is no recognition as to the highly distinctive character of the noise emanating from motocross bikes.
- The LA90 Noise level used at the motocross track is too low and used to claim the noise level is below the noise limit.
- The noise measurements are based on 6 bikes in use at any one time however 13 no. proposed car parking spaces are proposed.
- The note from the Senior Planner (SP) refers to a non-existent Report from the Senior Executive Scientist. The absence of such a report is highly irregular and suggests the noise impact assessment was not assessed by the relevant expert in the Local Authority.
- The SP proposal to introduce more screening does not address the issue of noise impact. FI should have been requested for a revised Noise Impact Assessment and permission should only have been granted where the Local Authority was thoroughly satisfied that the proposed mitigation was acceptable, particularly since the proposal is a retention application.
- Conflicting Planning Conditions:
 - The Appellant submits that Condition no. 3 (Noise Mitigation) conflicts with Condition no. 13 (New Noise Survey and assessment at quarterly intervals with new mitigation measures).
 - The Appellant is critical of the upper noise limit of 55db stipulated under Condition no. 10 and notes that no penalties have been applied for distinctiveness, repetition and tonality. The Appellant considers that a future noise assessment may revised these limitations resulting in potential future conflicts as to which limitations apply.

- The Appellant requests that in the event of a Grant of permission being issued, the Board/ Commission address the above conflict in terms of the potential future impacts upon surrounding residential amenities. Any such future noise impact assessments should be carried out by a suitably qualified and competent professional.
- Need for an additional Motocross track. The Appellant submits there is already an existing Motocross track facility located within close proximity to the site and has submitted an Aerial image view of same relative to the subject appeal site. The Appellant submits the need for two such facilities in such close proximity to one another is questionable.
- Flood Zone: The entire access road serving the subject Appeal site is located within Flood Zone A. Planning permission was recently refused for a dwelling located adjacent to the site entrance, for failure to submit a flood risk assessment and failure to submit a Natura Impact Assessment (NIS) with specific reference to impacts on the Slaney River Valley SAC, see planning reg. ref. no. 20240725. The same reasons for refusal are justified in this instance. The Report of the Senior Executive Planner makes no reference to flooding or the designation of the site within OPW Flood Zone A.
- Visual Impact: The Appellant submits that the track is clearly visible from the road and represents a significant visual intrusion to a designated sensitive upland landscape. The Appellant has provided 2 no. views of the track, from the north and submits that the proposed development should be refused on the basis of its unacceptable visual impact.

7.2. Applicant Response

7.2.1. The Applicant submitted a Response to the Third Party Appeal, which can be summarised, as follows:

- Failure to Submit an Environmental Impact Assessment (EIA)
 - An EIA is required for '*all permanent racing and test tracks for motorised vehicles*'. The application is for a temporary motocross facility and therefore the above requirement is not relevant. The facility will not be

used for racing or testing. This was discussed with the Planning Authority prior to the lodgement of the Planning Application and was not required for this reason. In Ireland there are 2 no. registered racing tracks only. The Local Authority reference this in its decision to Grant permission.

- The Appellant does not appear to recognise that the proposed development is for a temporary training facility which does not require an EIA as confirmed by the Planning Authority. The Planning Authority has therefore not failed to meet their obligations as per Class 11 a) of Part 2 of the Planning and Development Regulations, 2001.
- The only difference between the subject Granted permission and the previous application Granted by the Local Authority is that the subject application is for a temporary rather than permanent facility, which makes the Appellants own argument for an EIAR moot.
- The Appellants consider there is little difference between a racing and test track and a training facility. The Applicant submits the Appellant do not understand what is involved for a racing and test track and submits that the differences are significant. The differences include, for example, the number of bikes as a racing facility can have up to 40 bikes at a time in a race with up to 200 riders present at the event. In addition, there would be a significant number of spectators attending such races. The Applicant submits this would represent a much larger facility and that there is a huge difference between a racing and test track and the training facility which has been granted.
- Invalid Planning Application
 - The proposed development wording '*Retention of temporary motocross club training facility*' covers retention of the existing storage container, track, fencing, posts, parking and all elements of the existing training facility and track.
 - Permission for the conversion of the container was also sought.
 - In granting permission, the Local Authority has deemed the development description to be correct.

- Inconsistencies in Decision Making
 - The planning application referenced by the Appellants which was refused permission was for a one off dwelling and some of the reasons refer to a requirement for a Stage 2 Appropriate Assessment. The proposal included a WWTS. The primary reason for refusal related to public health owing to the location of the site within a flood zone. Only part of the entrance laneway to the training facility is within a Flood Zone. The temporary training facility is not within a flood zone. There is no WWTS proposed therefore AA Screening is not required. There is no relevant connection between the 2 no. applications.
- Errors in Noise Assessment
 - The Noise Assessment was carried out by an experienced Professional contrary to the Appellants representative stating otherwise. The Noise Assessment complies with all current regulations as confirmed by the Author who is a highly trained and experienced professional in the field.
 - The owner of the nearest dwelling, as per the Appellants Map, has no issue with the proposed motocross training facility and track. The owner of said dwelling declined an invitation to be part of the subject Appeal but like other local residents in the area, decided to decline in favour of the development being granted.
 - Noise monitoring was carried out at the nearest accessible locations to the dwellings of those who submitted an observation to the planning application and voiced a noise concern. The Noise Impact Assessment confirms the noise levels at these locations are below the requirements and that traffic noise from the public road serving this residence provided higher noise levels than that of the motocross facility and track.
 - The facility will not operate after 7pm. It is therefore not relevant for the Appellant to state the noise limits in the report are incorrect and do not take into consideration lower limits for evening time or the use of corrections for the character of the noise.

- The noise monitoring gives a very accurate noise report. Noise monitoring was carried out at the trackside. In order to focus on the point of the noise source, the LA90 noise metric was used in close proximity to public roads to remove traffic peak related noise from the dataset.
- There will be a maximum of 10 bikes in the track at any one time despite the Appellants point that there are 13 no. car parking spaces proposed. There will be 2 groups of 10 bikes, each on the track for a maximum of 10 to 15 minutes.
- The facility will be regulated to Motorcycling Ireland (MCI) regulations. This includes the scrutiny of any machine in use and a noise testing facility to ensure compliance with the regulations, the proper silencers fitted and in working order.
- The noise mitigation measures proposed in the Report have not been acknowledged by the Appellants. All measures imposed under the conditions of this Grant of permission will be implemented and regular noise tests carried out.
- Clarify Operating Hours
 - Operating Hours are proposed to be on Wednesdays from 3.00 pm to 7.00 pm and either Saturdays or Sundays from 10.00 am to 16.00 pm but not on both days at the weekend. A 2 day training camp is proposed to take place 6 times a year. The Applicant is willing to sign an agreement to abide by said Operating Hours.
- Flood Zone/ Natura Impact
 - The access road, which previously served a sand and gravel pit, has been in use for generations and has never in all that time been impassable. During periods of heavy rain, some small puddles form but does not cause an issue with access. The landowner has committed to providing drainage measures to address this temporary gathering of water.
- Visual Impact

- From some locations, the track is slightly visible but will have little if any visual impact from the public road. Additional trees will be planted along the boundaries which will serve to act as a visual barrier and a noise barrier. Grass planted in some locations within the facility further assist in integrating the facility into the environment. The photos presented as part of the appeal are zoomed in and do not provide a true representation of the proposed development. The visual impact is low.
- Conclusion
 - Permission has been granted by the Local Authority for the subject Temporary training facility.
 - The owner of the temporary training facility has spoken to local neighbours and a large percentage (95% approx..) have raised no concerns and are in favour of this temporary training facility. Some have visited the site and enjoyed watching the training which indicates the proposal has a very small negative impact on the local neighbourhood.

7.3. Planning Authority Response

- None

7.4. Observations

- Department of Housing, Local Government and Heritage – Development Applications Unit (DAU):
 - Nature Conservation:
 - A site inspection was carried out on 28th November 2024. 2 no. watercourses were noted to border the site to the north, as follows:
 - The Rosnastraw Stream (_010) and
 - An unnamed stream which flows into the Rosnastraw Stream 150 metres further downstream.
 - Concerns are raised in relation to existing silt in one of 3 no. existing direct connections from the site to the said watercourses.

- Concerns are raised that without mitigation there may be potential for release of large amounts of silt and sediment material into Rosnastraw Stream, which is hydrologically connected to the Slaney River Valley Special Area of Conservation (SAC) (Site Code: 000781), 6.7 km downstream.
- When carrying out Appropriate Assessment, An Bord Pleanála/ the Council must ensure this development will not serve to result in an adverse impact upon the said European Site at any stage of the development, including the construction and operational phases.
- Advice is provided in relation to the removal of trees or vegetation, where possible, outside the Bird Nesting Season (March to August) and the retention of hedgerows, except where removal is necessary to achieve sightlines. New planting to comprise native species.

7.5. Further Responses

- None

8.0 Assessment

8.1. Introduction

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

- Environmental Impact Assessment Screening
- Ecological Impacts
- Noise Impact
- Flood Risk
- Visual Impact

- Other Matters
 - *Inconsistency in Decision Making*
 - *Validity of the Planning Application*
 - *Need for an Additional Motocross Track*
 - *Additional Issues*

8.2. Environmental Impact Assessment Screening

8.2.1. The Commission will note the Planning History set out in Section 5.0 above. A previous retention application on the subject lands was refused in January 2024, as planning reg. ref. no. **20220985 (Appeal Ref. No. ABP-315467-23)** refers. As per the 1 no. reason for refusal the Board was precluded from considering a grant of permission as per Section 34 (12) of the Planning and Development Act, 2000, as amended, as the proposed retention application required a mandatory Environmental Impact Assessment. The proposed development description for the said previous retention application, as advertised, was as follows:

- *Retention of motorcycle training facility and track, permission to convert existing container into site office/storage, associated site works and services.*

8.2.2. By comparison, the proposed development description under the subject application and appeal, as advertised, reads as follows:

- *Retention of a temporary motocross training facility, 5 year temporary permission for the temporary motocross club training facility, permission to convert existing container into a temporary site office/storage and all associated site works.*

8.2.3. I note the subject planning application, reg. ref. no. 20240844 was lodged on 16th July 2024. I note the Local Authority EIA Pre-Screening Form signed and dated 22nd July 2024 attached to the online planning file, where the following assessment is provided:

'Note: Per Schedule 5, Part 2, 11 (a) 'All permanent racing and test tracks for motorised vehicles require a mandatory EIAR. The proposed description is for a temporary 5 year permission, motocross club training facility. I have considered Schedule 5, Part 2, 15 which states 'Any project listed in this Part

which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.” I note that a noise impact report has been submitted. Please advise as to whether a sub-threshold EIA is required. Having discussed the proposal with the Senior Executive Planner, a sub-threshold EIA is not required, given temporary nature of use.’

- 8.2.4. I note the Local Authority Planner, as set out in the Planning Report attached to planning reg. ref. no. 20240844, determined that, having regard to the revised development description, it is considered that the motocross training facility does not meet the requirements as set out in Class 11 (a) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 and that therefore an EIAR is not required.
- 8.2.5. As part of the appeal response, as summarised above in Section 7.2, the Applicant’s case for not providing an EIA is essentially that as the EIA requirement is for ‘*All permanent racing and test tracks for motorised vehicles*’, and as the application is for a temporary motocross facility, the above requirement is not relevant. The Applicant makes the further point that the facility will not be used for racing or testing and that there is a significant difference between a racing and test track and a training facility. The Appellant provides an example where the number of bikes and spectators at a racing facility would represent a much larger facility and that there is a huge difference between the two, i.e. a racing and test track and the training facility which has been submitted.
- 8.2.6. I note, as per the planning enforcement case pertaining to the site, as ref. no. 0034-2020 refers, that an Enforcement Notice was issued on 1st October 2021. I further note, as per available online aerial imagery from May 2020, that the site has the appearance of a motocross circuit. In my opinion therefore there is evidence to suggest that the motocross facility has been in operation at the site for a period in excess of 5 years. In addition, I note the Appellants state in the appeal received by the Commission on 2nd October 2024 that they consider the applicant has been running the facility for nearly 5 years. Condition no. 4 of the Notification of Decision to Grant permission, issued by the Local Authority, stipulates an expiry date of 30th September 2029. This essentially means that if the proposal were to be permitted

and the said condition applied, the development would be in operation for a period of over 9 years.

- 8.2.7. Although the proposed development description refers to temporary uses throughout, I am not satisfied that it has been suitably demonstrated that the proposed development is indeed temporary, particularly when the period within which the facility has already been in operation is taken into consideration.
- 8.2.8. I have compared the plans and drawings submitted under the previous planning application, reg. ref. no. 20220985, to those submitted under the subject application. The plans and drawings are essentially the same aside from the dates of drawing no's 1.01 to 1.05, i.e. March 2022 versus April 2024. In other words, aside from the proposed development descriptions, the submitted plans and drawings on both applications are essentially the same.
- 8.2.9. I note the previous development description presented under planning reg. ref. no. 20220985 included retention of a 'track' and that this word 'track' is omitted from the current proposed development description presented under the subject application, reg. ref. no. 20240844 which instead refers to retention of a '*temporary motocross facility*.' As shown in both sets of plans and drawings, i.e. those presented under the previous planning application, reg. ref. no. 20220985 and the subject application, the existing development includes a motocross track.
- 8.2.10. Having regard to the foregoing, I am not satisfied, based on the information attached to the subject application and appeal, including the submitted plans and documents, that the applicant has suitably demonstrated that the proposed development, as presented, constitutes a 'temporary' motocross facility. Although the proposal may be, as per the proposed operating hours, to operate the facility on a Part Time as opposed to a Full Time basis there is, in my opinion, a degree of permanency to the existing facility and track owing to the extent of time that it has already been in place and the additional extended 'temporary' period sought.
- 8.2.11. I note EU Guidance¹ from 2015 in relation to Annex II (11) Other Projects (a) Permanent racing and test tracks for motorised vehicles; states the following:

¹ European Commission, *Interpretation of definitions of project categories of annex I and II of the EIA Directive*, European Union, 2015.

'Assessment of projects under this category can depend on the length of a racing track or its location. Accordingly, in one Member State, an environmental impact assessment is mandatory for permanent racing and test tracks for motorised vehicles if the tracks have a length of 2 km or more, while screening will be conducted in the case of permanent racing and test tracks for motorised vehicles when located within protected areas, such as Natura 2000, national parks or UNESCO heritage sites.'

8.2.12. In conclusion therefore, having regard to

- the similarities in both proposals,
- the decision of the Board to refuse permission under Appeal ref. no. 315467-23 for 1 no. reason where an EIA was considered to be mandatory,
- Class 11 a) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 to 2025,
- Class 15 of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 to 2025, which states: '**Class 15:** Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7',
- The significant potential environmental effects set out further below which include Noise and Ecological Impacts,
- The length of the existing race track which is estimated to measure a maximum of 1.6 km,
- The abovementioned EU Guidance from 2015,

it is my opinion that,

- The onus is upon the Applicant to clearly demonstrate, by way of an Environmental Impact Assessment (EIA) Screening Statement, that the proposed development, as presented, constitutes a subthreshold development and is not subject to a mandatory Environmental Impact Assessment.

8.2.13. In the absence of same, I am not satisfied that the Applicant has provided sufficient information to enable the Commission to make a decision on this matter and that permission should therefore be refused.

8.2.14. Should the Commission be mindful to Grant the subject proposal, the Applicant could be invited to provide an Environmental Impact Assessment Screening Statement, however owing to the other substantive reasons for refusal, as set out in this report, it may not be necessary to do so.

8.2.15. The Commission is reminded as to the provisions of Section 34 (12) of the Planning and Development Act, 2000, as amended, which for ease of reference reads as follows:

'Section 34 (12)

A planning authority shall refuse to consider an application to retain unauthorised development of land where it decides that either or both of the following was required or is required in respect of the development:

(a) an environmental impact assessment;
(b) an appropriate assessment.'

8.3. Ecological Impacts

8.3.1. I note the concerns raised in the Appeal in relation to the potential Ecological Impacts of the proposed development. The Appellants appointed Ecologist considers the decision of the Local Authority to issue a Notification of Decision to Grant permission is contrary to several development plan Objectives relating to Environmental Management, Natural Heritage, Green Infrastructure and Water Quality.

8.3.2. Following lodgement of the Appeal and at the invitation of the Board, an Observation Submission was received from the Department of Housing, Local Government and Heritage (DHLGH). The submission, although focused on the issue of Nature Conservation, is primarily concerned with the potential ecological impacts of the proposed development upon the Slaney River Valley Special Area of Conservation (SAC) and Appropriate Assessment as opposed to impacts upon in situ Ecology on site. The submission from DHLGH does however refer to the avoidance of hedgerow

or vegetation removal during the bird nesting season, the retention of native hedgerows and the supplementation of native species hedgerows.

- 8.3.3. The subject appeal site is that of a previously developed Sand and Gravel quarry as opposed to a greenfield. I note the various Objectives referenced in the Appeal which the Applicants appointed Ecologist considers the decision of the Local Authority conflicts with, each referenced Objective is considered below.
- 8.3.4. Objective EM02 of the Development Plan relates to Appropriate Assessment, see Section 9.0 below.
- 8.3.5. Objective NH01 relates to the protection of all designated ecological sites (as detailed in Section 13.2.1 to 13.2.11) in relevant Local Area Plans. Although the subject appeal site is not a designated site it is nonetheless hydrologically connected to a European (Natura 2000) site namely the Slaney River Valley SAC. The issue of Appropriate Assessment is addressed below in Section 9.0. The Applicant has not presented any specific proposals for the restoration of the lands and therefore, in this regard, it is my opinion that the proposed development, as presented, conflicts with Objective NH01.
- 8.3.6. Objective NH02 is '*to protect and enhance the rich qualities of our natural heritage in a manner that is appropriate to its significance.*' The subject appeal site has a stated site area of 3.13 hectares (7.7 acres). In order to establish the ecological significance of the subject appeal site, it is my opinion that the existing ecological baseline would first need to be determined. An Ecological Impact Assessment of the site would assist in this regard. As the applicant has not demonstrated the ecological significance of the site, it is my opinion that the proposed development, as presented, conflicts with Objective NH02.
- 8.3.7. Objective NH04 relates to the protection of the integrity of designated sites for their habitat and species importance and to prohibit development which would damage or threaten the integrity of these sites. As stated, although the subject appeal site is not a designated site, it is nonetheless hydrologically connected to a European (Natura 2000) site namely the Slaney River Valley SAC. The issue of Appropriate Assessment is addressed below in Section 9.0.
- 8.3.8. Objective NH08 relates to Appropriate Assessment, please see Section 9.0 below.

8.3.9. Objective NH09 is concerned with ensuring the protection of areas, sites and species and ecological networks/ corridors of local biodiversity value outside the designated sites throughout the county and to require an ecological assessment to accompany development proposals likely to impact on such areas or species. I note the Appellants appointed Ecologist submits there is potential for rare or protected flora species at the former quarry site, that several notable quarry sites in County Wexford have populations of rare and protected flora species, that there is potential to impact upon protected fauna species, including badgers and red squirrel and that other prominent protected species have been recorded within 10km of the site and may potentially be also impacted upon. In my opinion, the onus is upon the applicant to demonstrate that the proposed development would not result in a negative impact upon the established ecological value and biodiversity of the site. Owing to the size, scale and nature, of the proposed development, it is my opinion that an Ecological Impact Assessment is warranted in this instance. In the absence of same, it is my opinion that the proposed development, as presented, conflicts with Objective NH09.

8.3.10. Objective NH10 relates to the protection of traditional field boundaries, ponds or small woods which provide important ecological corridors, stepping stones or networks. The objective also places an onus upon the applicant to demonstrate that the design of the development has resulted in the retention of such features, where they exist and insofar as is possible and that the existing biodiversity value of the site has been protected and enhanced. While it is accepted that the site is that of a former sand and gravel quarry and that it has been previously worked out, in my opinion, an Ecological Impact Assessment would enable the establishment of an ecological baseline upon which the potential ecological impact of the proposed development could be fully assessed. In the absence of same, it is my opinion that the proposed development, as presented, conflicts with Objective NH10.

8.3.11. Objective NH19 and Objective NH25 relate to the control and spread of Invasive Species. The applicant has not provided any information in relation to the potential presence of invasive species nor indeed any measures to control potential invasive species which may arrive on site and which may spread to other sites, potentially including the Slaney River Valley SAC. An invasive species management plan, where it is established to be necessary, could form part of the aforementioned

Ecological Impact Assessment. In my opinion, the Applicant has not demonstrated compliance with Objectives NH19 and NH25.

8.3.12. Objective GI05 relates to the creation of riparian buffer zones. In my opinion, the minimum recommended riparian buffer zone of 10 metres from all watercourses is not observed throughout the subject appeal site and it is therefore my opinion that the proposed development, as presented, conflicts with Objective GI05. I note submission from the DHLGH where the absence of any vegetation is noted at one of 3 no. connection points to adjacent watercourses, including the Rosnastraw Stream_10.

8.3.13. Objective WQ07 is '*To screen planning applications according to their Water Framework Directive status and have regard to their status and objectives to achieve 'good' status or protect and improve 'high or good status'*'. Please see Section 10.0 below in relation to Water Framework Directive.

8.3.14. In my opinion, the proposed development, as presented, conflicts with the provisions of Objective NH01, as there is no restoration plan provided, Objectives NH02, NH09, NH10, NH19, NH25 as there is no Ecological Impact Assessment provided and Objective GI05 as sufficient riparian strips have not been provided. In the absence of information to the contrary, it is my opinion that it has not been demonstrated that the proposed development, as presented, would not result in significant ecological impacts.

8.3.15. Should the Commission be mindful to Grant the subject proposal, the Applicant could be invited to provide an Ecological Impact Assessment, a restoration plan and proposals to adhere to Objective GI05 however, owing to the other substantive reasons for refusal, as set out in this report, it may not be necessary to do so.

8.4. Noise Impact

8.4.1. The Application is accompanied by a Noise Impact Assessment Report prepared by Environmental Consultants. Save for some minor deviations, the Report is essentially identical to that submitted in Response to the Request for Further Information issued under the previous planning application on site, as planning reg. ref. no. 20220985 (Appeal Ref. no. 315467-23) refers. I note in the opening paragraph of the previous Report (Section 1.0 Background and Introduction) it is stated that '*there had been a number of complaints from local residents regarding*

noise nuisance from the facility.' This sentence is omitted from the updated Noise Impact Assessment Report.

8.4.2. I note the Noise Survey was carried out in September 2022 and that reference is twice made to a dense Coillte Forest located on the southern and eastern boundaries of the motocross track. I note however, as per available online aerial imagery, the said forestry lands to the immediate south and east of the subject lands have been extensively felled. As per said available online aerial imagery the said forestry is shown to have been in place in June 2023 which indicates that the said forestry was felled since that date. The subject application, planning reg. ref. no. 20240844, was received by the Local Authority in July 2024. Although this post-dates the original Noise Impact Assessment it has not been updated to reflect the existing site surroundings, particularly the adjacent felled forest. The noise survey, taken at a time when the adjacent dense forestry was in place, i.e. September 2022, is not therefore, in my opinion, truly representative of the current surrounding landscape which is now more open and exposed. The Applicant expressly references this former dense forestry in the current Assessment and states '*the southern and eastern boundaries of the site is surrounded by dense Coillte Forest.*' Such dense forestry would, in my opinion, offer a greater degree of sound buffering compared to the current open and exposed landscape. The submitted Noise Impact Assessment is not however reflective of, what is in my opinion, this significant change in the adjacent landscape.

8.4.3. I also note under Section 2.1 Facility Description, it is stated that when the facility is in use, it is limited to a maximum of 10 no. bikes on the track at any one time. The previous Noise Impact Assessment Report refers to a maximum of 6 bikes on the track at any one time. The opening hours are also proposed to increase by 1 hour on the open days of Wednesday and Saturday and include an additional day (Sunday from 11 am to 6 pm). This means the facility is proposed to be open 3 days a week as opposed to the 2 no. days previously proposed. These proposed changes, in my opinion, represent a more intensive activity in terms of bike number and opening hours compared to the previous proposal refused by the Board, as appeal ref. no. 315467-23 refers.

8.4.4. I note, as per Section 7.0 (Monitoring Locations and Observations) that the Noise Assessment survey was carried out on 26th September 2022. A total of 5 no.

readings were taken (N1, N2, NSL1, NSL2 and NSL3). I note N2, NSL1, NSL2 and NSL3 were taken when 6 no. motorbikes were in use as opposed to the stated increased maximum number of bikes at 10 no. bikes.

8.4.5. I note the 3 no. selected Noise Sensitive Receptor Locations (NSL1, NSL2 and NSL3) relate to properties within between 300 and 500 metres from the permitter of the existing motocross track. There is however, a number of other existing dwellings which are closer to the perimeter of the motocross track which have not been included as part of the Noise Impact Assessment. For example, there is an existing dwelling located c. 158 metres to the northwest of the site and 2 no. other existing dwellings located within c. 205 metres and c. 234 metres respectively to the north of the site which have not been selected as noise sensitive receptors. The Applicants reasoning for the choice of the 3 no. Noise Sensitive Location Receptors (NSL1, NSL2 and NSL3), as stated in the Applicants Appeal Response, is on the basis of them being the nearest accessible locations to the dwellings of those who submitted an observation to the planning application and voiced a noise concern.

8.4.6. The Applicant states in Section 10.2 of the Noise Impact Assessment Report that the motorcycle track is located at a lower level than the houses located in the vicinity of the site at the public road. Having regard to the submitted plans and sections, I do not consider this statement to be correct. The site of the existing motocross track, as per the submitted plans, for example, ranges between c.126 metres at the location of the proposed compound/ car parking area to c.138 metres at the rear/ south of the site. This is higher than the public road at the entrance to the site to the north which is shown to be 121.41 metres. In terms of proposed mitigations, the Applicant proposes the implementation of tree break planting along the northern and western site boundary. Aside from the type of species which could be utilised, there is no specific landscaping plan or boundary treatment plan proposed in this regard.

8.4.7. I note the concerns of the Appellant in relation to Noise Impact Assessment as raised in the Appeal which include a Report/ Submission prepared by Acoustic Consultants. The Appellant raises similar concerns to those raised above but also questions the specified noise limits used, the lack of recognition of the highly distinctive character of the noise emanating from motocross bikes, the absence of a Report from the Senior Executive Scientist as referenced in the Local Authority

Assessment and the proposal of the Applicant to introduce more screening to address the issue of noise impact.

- 8.4.8. Point no. 1 of the Request for Further Information issued under the previous planning application on the site (planning reg. ref. no. 20220985 (Appeal Ref. No. 315467-23)) relates to a Noise Impact Assessment and this is based on a recommendation from the Environment Department. Following receipt of the Response to Further Information under that said application, the Environment Department recommended a Grant of permission subject to 2 no. conditions relating to welfare facilities and the use of the facility. The issue of Noise Impact did not form part of the previous Inspectors assessment of the previous appeal on site, as case reference no. ABP-315467-23 refers.
- 8.4.9. The Local Authority Planners Report attached to the subject application, reg. ref. no. 20240844, states no Report was received from the Senior Executive Scientist in the Environment Department and refers to the Environment Department Report attached to the previous application, reg. ref. no. 20220985. A supplementary note is attached to the Local Authority Planners Report from the Senior Planner where the Report of the Senior Executive Planner is noted, concerns are raised in relation to Noise Impact and an additional noise specific condition is recommended (see condition no. 13). The Senior Planner states that the Senior Executive Scientist has confirmed that the Environment Department would accept this approach to review the operation of the site (i.e. additional noise survey and assessment, as imposed under condition no. 13).
- 8.4.10. I note said Condition no. 13 as quoted above in Section 4.0 of this Report. The addition of such a condition, in my opinion, indicates that the Local Authority considered the submitted Noise Impact Assessment to be inadequate.
- 8.4.11. Having regard to the foregoing, it is my opinion that the onus is upon the applicant to first clearly demonstrate by way of a suitably scoped, accurate, representative and robust Noise Impact Assessment, that the existing development would not give rise to an unacceptable Noise Impact on the existing residential amenity of surrounding residents. This first step, in my opinion, has not been carried out. It is my opinion that the submitted Noise Impact Assessment is outdated, is not reflective of the current pattern of development in the area, including the recently felled forestry to the rear

and is not representative of nearby relevant noise sensitive receptors including at least 3 no. existing dwellings within c. 250 metres of the perimeter of the existing motocross track. In order to determine the full Noise Impact of the proposed development, an appropriate, representative and reliable baseline must first be established.

8.4.12. While I note condition no. 13 of the Local Authority decision, its imposition, in my opinion, effectively means that the assessment of the issue of Noise Impact, which forms a fundamental concern as raised by the Third Parties, would be adjudicated upon at a later stage, i.e. post decision. There is no guarantee, in my opinion, that the additional measures mentioned under condition no. 13 would indeed be successful in suitably addressing the issue of Noise Impact.

8.4.13. In conclusion, it is my opinion that the submitted Noise Impact Assessment is outdated, is not reflective of the current pattern of development in the area, including the recently felled forestry to the rear and is not representative of nearby relevant noise sensitive receptors including at least 3 no. dwellings within c. 250 metres of the perimeter of the existing motocross track. In my opinion, the Applicant has not suitably demonstrated that the proposed development, as presented, notwithstanding the proposed mitigation measures referenced, i.e. the implementation of tree break planting along the northern and western boundaries of the site, is sufficient to address the noise impact concerns raised in the appeal. In the absence of sufficient and reliable information to the contrary it is my opinion that the proposed development, as presented, has the potential to result in a negative noise impact for surrounding residents. I would also point out that the subject appeal site is estimated to be within 1.4 km to the southeast of Annagh Hill which, as per Table 10.2 of Section 10.7 (Noise) of Volume 1 of the Wexford County Development Plan, 2022 to 2028, is listed as one of a number of Potential Quiet Areas in the Open Countryside. I further note, Objective N03 of the Development Plan refers to the Wexford County Council Noise Action Plan, 2019 to 2023 and that the Local Authority shall have regard to same and '*ensure that planning applications comply with the provisions and requirements of that plan, and any future revisions/update to it.*' As per Map the Potential Quiet Areas Map set out in Figure I-1 of Appendix I of the Noise Action Plan, the Potential Quiet Area surrounding Annagh Hill extends to an area c. 3km square which, in my view, would be close to and potentially includes

the subject appeal site. I note a separate Potential Quiet Area at Croghan Mountain (Croghan Upper) is shown on the same map to the northeast of the subject appeal site. I estimate the summit of Croghan Mountain lies within 5.3 km to the northeast of the subject motocross track.

8.4.14. Should the Commission be mindful to Grant permission, the Applicant could be invited to provide a suitably revised Noise Impact Assessment which addresses the above concerns. However, owing to the other more substantive issues raised, it may not be necessary to do so.

8.5. Flood Risk

8.5.1. I note as per Flood Mapping attached to the rear of Volume 11 – Strategic Flood Risk Assessment (SFRA) of the Wexford County Development Plan, 2022 to 2028, that part of the subject appeal site, including almost all of the existing site access and part of the northern site boundary, site compound and car parking area, is indicated to be located within Flood Zone A.

8.5.2. Planning permission was refused by the Local Authority in August 2024 for a dwelling on a site located c. 35 metres to the west of the entrance to the subject appeal site from the public road, as planning reg. ref. no. 20240725 refers. Permission was refused for 5 no. reasons, the first and fourth reasons of which relate to the issue of potential flood impact, the need for a Site Specific Flood Risk Assessment and a risk to public health owing to the location of the proposed effluent treatment system within a flood zone.

8.5.3. I note Section 9.11 of the Wexford County Development Plan, 2022 to 2028, relates to Flood Risk and Surface Water Management. I note the advice note set out in Section 9.11.6 of the Development Plan where the following is stated:

'the onus will be upon the applicant to prove beyond all reasonable doubt that the subject site is not vulnerable to flooding. This must be proved based on appropriate scientific data and assessment carried out by a suitably qualified and indemnified professional in line with the requirements of the Planning System and Flood Risk Management-Guidelines for Planning Authorities (DEHLG and OPW, 2009).'

8.5.4. I note Objective FRM07 relates to compliance with the Planning System and Flood Risk Management Guidelines for Planning Authorities, 2009, the application of the sequential approach to development and the development management justification test. The Objective also refers to the application of the precautionary principle and the screening of all proposals for flood risk with particular attention being paid to lands within, along the edge or adjacent to Flood Zone A or B. As noted further above, a significant extent of the northern part of the overall site, including the site access, is located within Flood Zone A.

8.5.5. I note, as per Table 3.1 of the Flood Risk Management Guidelines, 2009, that water compatible development includes '*amenity open space, outdoor sports and recreation and essential facilities such as changing rooms.*' In my opinion, the proposed motocross facility falls within this definition of water compatible development. As per table 3.2 in Section 3.6 of the said Flood Risk Management Guidelines, 2009, Water Compatible Development is deemed to be appropriate in Flood Zones A, B and C. Having regard to Objective FRM07, it is my opinion, owing to the nature of the proposed development, which constitutes Water Compatible Development, that there is no onus upon the applicant to provide a Site Specific Flood Risk Assessment.

8.5.6. I further note Section 4.4 of Volume 11 Strategic Flood Risk Assessment of the Development Plan provides further guidance in relation to Development Management and Flood Risk and states, *inter alia*, that:

'In areas where there are no formal land use zoning objectives, the Justification Test cannot pass for any sites within Flood Zone A/B. It would be down to a site-specific FRA to confirm (in appropriate detail) the extent of Flood Zone A/B. Development that does not require the application of the Justification Test, i.e. less vulnerable development in Flood Zone B and water compatible development in Flood Zones A and B can be considered.'

8.5.7. As stated, I consider the proposed development to represent water compatible development and although part of the overall site is located within Flood Zone A, it can, in my opinion, be considered. In conclusion, I consider the proposed development, as presented, to be acceptable from a Flood Risk perspective and I do

not consider a Site Specific Flood Risk Assessment (SSFRA) to be warranted in this instance.

8.6. Visual Impact

- 8.6.1. The subject appeal site and surrounding area is located within the Uplands Landscape Character Area as set out in Volume 7 (Landscape Character Assessment) of the Wexford County Development Plan, 2022 to 2028. As per the Sensitivity Rating set out in Table 7-3 of Volume 7, Uplands have a High Sensitivity Rating. There are no identified Distinctive Landscapes, Scenic Routes or Protected Views in the area. The Development Plan does not designate specific routes but notes that scenic routes may fall into a number of categories including routes through Upland, Coastal, River Valley and Distinctive Landscapes.
- 8.6.2. The subject appeal site is that of a former Sand and Gravel quarry which has been worked out over an extended period of time. The site is accessed via an existing laneway which, for the most part, is adjacent to an existing mature native hedgerow. I estimate the existing motocross track to be at least 247 metres from the public road. The track has a general rectangular shape and is orientated on a general south to north access. The rear of the motocross track, at its highest point, is estimated to be a maximum of 16 metres above the public road. The ground continues to rise steadily to the rear of the site. Annagh Hill, the highest point of which measures 454 metres, is positioned c. 1.4 km to the southeast.
- 8.6.3. I viewed the existing track from a number of positions along the public road. Owing to the existing separation distance from the public road, the south to north orientation of the motocross track, the existing sand colour of the track, the extent of existing tree cover along the northern field boundary and existing tree cover to the rear background, it is my opinion that the existing track is not readily visible from the public road. I note the additional screen planting proposed which would, in my opinion, if correctly implemented, serve to further assimilate the facility into the landscape.
- 8.6.4. Having regard to foregoing, it is my opinion that the existing motocross track, together with additional screen planting, as proposed, would not likely present a negative visual impact or serve to impact negatively upon the High Landscape

Sensitivity of the Area. In my opinion therefore, the proposed development, as presented, is acceptable from a visual perspective.

8.7. Other Matters

- *Inconsistency in Decision Making*

8.7.1. I note the concerns of the Appellants regarding a perceived inconsistency in decision making on behalf of the Local Authority. The main issues raised relate to the assessment of planning reg. ref. no. 20240844 and, in particular, the assessment of the issues of Flood Risk, Appropriate Assessment/ requirement for a Stage 2 Appropriate Assessment/ Natura Impact Statement and the lack of any reference in the Local Authority Planners Report to planning reg. ref. no. 20240725. I note the Local Authority Planners Report for the subject application, reg. ref. no. 20240844 was prepared by a separate Local Authority Planner to planning reg. ref. no. 20240725.

8.7.2. I have reviewed the Local Authority Planners Report and recommendation attached to the subject planning application, reg. ref. no. 20240844 and I agree with the Appellant that there is no reference to planning reg. ref. no. 20240725. The site of planning reg. ref. no. 20240725 is estimated to be c. 35 metres to the west of the existing entrance to the subject site and the proposal was for a new dwelling. In terms of flood risk, a dwelling represents a highly vulnerable (residential) use compared to the water compatible development proposed under the subject application and appeal. In addition, the proposal under planning reg. ref. no. 20240725 also included a proposed wastewater treatment system. I do not therefore consider the 2 no. applications to be directly comparable in terms of flood risk, as despite the fact that both are indicated to be located within Flood Zone A, they represent noticeably different forms of development of different flood risk vulnerability.

8.7.3. The Local Authority, as per Reason for Refusal no. 3 of planning reg. ref. no. 20240725, considered that a Stage 2 Appropriate Assessment/ Natura Impact Statement was required. The said reason for refusal no. 3 reads as follows:

3. *The proposed development is located on a site that has a direct hydrological link to the Slaney River Valley SAC (Site code: 000781), designated Natura 2000 site. Having regard to the proposed development*

and associated wastewater treatment system located within the flood zone and the associated risks and the absence of a Natura Impact Statement to facilitate a Stage 2 Appropriate Assessment, the Planning Authority cannot conclude that the development would not adversely impact the integrity of the Natura 2000 sites and the associated conservation objectives. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

- 8.7.4. The concerns of the Local Authority, as expressed under reason for refusal no. 3 of planning reg. ref. no. 20240725, relate to an existing hydrological connection to the same Natura 2000 site, i.e. the River Slaney Valley SAC, to that of the subject appeal site. In the case of the subject proposal however, the Local Authority has screened out the development for Appropriate Assessment. The issue of Appropriate Assessment is appraised further below in Section 9.0 of this Report where it is concluded that a Stage 2 Appropriate Assessment is required.
- 8.7.5. Each planning application is dealt with on its own merits. There are noticeable differences between the subject proposal and that refused under planning reg. ref. no. 20240725. At the very least, in my opinion, the Local Authority should have made reference to planning reg. ref. no. 20240725 as part of the relevant planning history, particularly since similar issues arose in the adjacent decision, i.e. flood risk and appropriate assessment. In conclusion, it is my opinion that in not referencing a relevant adjacent decision, as planning reg. ref. no. 20240725 refers, the Local Authority has not suitably demonstrated that the subject proposal is consistent with other relevant development in the area.
 - *Validity of the Planning Application*
- 8.7.6. I note the concerns of the Appellant regarding the validity of the planning application. The Appellant refers in particular to an existing container on the site and states that this requires both retention and planning permission to convert same into an office. It is accepted that the said container does not have the benefit of planning permission. I note the proposed development description, as per the public notices, refers in part to '*retention of a temporary motocross club training facility*' and includes '*permission to convert existing container into a temporary site office/ storage.*' Based on the said proposed development description, I am satisfied that the public has been suitably

informed as to the presence of an existing container on the site and that it is clear the proposal also seeks the retention of the existing temporary motocross club training facility. I do not consider the proposed development description to be misleading in respect of the existing container.

8.7.7. The Appellant refers to 'Section' 22 (2) f) of the Planning and Development Regulations and considers that the proposed development has failed to comply with same. I note Article 22 (2) f) of the Planning and Development Regulations, 2001 to 2025, relates to a Section 97 Certificate and states: '*where appropriate, a certificate issued by the planning authority in accordance with section 97 of the Act, or if such certificate has been applied for but not issued, a copy of the application made in accordance with article 48.*' In my opinion, Article 22 (2) f) of the Planning and Development Regulations, 2001 to 2025, does not relate to the type and form of development proposed and is therefore not relevant to the assessment of the subject appeal.

8.7.8. The Appellant considers the incorrect planning fee has been paid and that on this basis, the application is invalid. I note the planning application fee paid and the basis of calculation for same, see Question 22 of the Planning Application Form. The Appellant states the fee is incorrect but does not offer any counter opinion or calculations as to what they consider to be the correct fee. I note the Scale of Fees for Planning Applications, set out in Schedule 9, Section 2 of the Planning and Development Regulations, 2001 to 2025 and, in particular, Class 7² and Class 13³.

8.7.9. I note as per Question 11 of the Planning Application Form that the site area is indicated to measure 3.13 hectares whereas the Applicants Fee Calculations under Question 22 of the Application Form indicate a smaller site area of 3.03 hectares and therefore a lower application fee. I also note that under the Applicants' Class 7 calculations, the Applicant has used a figure of 0.1 hectares as opposed to the full site area of 3.13 hectares. Having regard to the foregoing, it is my opinion that where the same fee Classes (Class 7 and Class 13), are applied in full to the stated site

² Class 7: *The use of land for—*

(a) the keeping or placing of any tents, campervans, caravans or other structures (whether or not movable or collapsible) for the purpose of caravanning or camping or the sale of goods,

(b) the parking of motor vehicles,

(c) the open storage of motor vehicles or other objects or substances.

³ Class 13: *Development not coming within any of the foregoing classes.*

area of 3.13 hectares, this results in a higher fee being applicable and that therefore the incorrect fee has been paid in this instance.

8.7.10. The Application has nonetheless been deemed to be valid by the Local Authority.

The calculation of the correct planning application fee is a matter for the Local Authority and does not fall within the remit of the Commission.

- *Need for an Additional Motocross Track*

8.7.11. The Appellant refers to an existing nearby motocross track facility. The Appellant questions the need for 2 no. such facilities in such close proximity to one another. I estimate the referenced existing motocross facility is located c. 1.11 km to the northwest of the entrance to the subject appeal site off the public road and that the 2 no. motocross tracks are c. 1.25 km apart. There is no record on the online planning register for a motocross facility on this additional site. No details as to the operation of the other existing motocross facility are provided and I note the Applicant has not commented on this issue.

8.7.12. As set out within this Report, there are more substantive planning concerns raised as to the principle of the proposed development at this location. The existence of another separate motocross facility in the area may not therefore arise for the consideration of the Commission in its assessment of the subject proposal.

Notwithstanding, it is my opinion that the presence of another, separate, existing motocross facility in the area does not, in of itself, prohibit another separate facility within the area. Each planning application should be assessed on its own merits in accordance with the proper planning and sustainable development of the area. The potential for cumulative Noise Impacts arising from 2 no. Motocross facilities in close proximity to one another should nonetheless, in my opinion, be an important planning consideration.

- *Additional Issues*

8.7.13. I note a number of additional issues are raised in the third submissions to the planning application. These include the potential impact of the proposed development on existing Livestock (noise impacts on breeding mares and foals) in the area, an Impact on Property Sales/ Depreciation in Property Values and Past Failures to Comply.

8.7.14. The issue of potential noise impacts on nearby breeding mares and foals does not form part of the Local Authority Assessment nor is it expressly referenced in the Appeal. The concerns in relation to the existing Noise Impact Assessment are set out further above. In my opinion and where deemed relevant and necessary, any revised Noise Impact Assessment should be required to clearly demonstrate that the proposed development would not present a negative noise impact upon all relevant nearby noise sensitive receptors including relevant residences and farm/ equestrian holdings.

8.7.15. The issue of an Impact on Property Sales/ Depreciation in Property Values does not form part of the Local Authority Assessment nor is it expressly referenced in the Appeal. I note, as per the relevant submissions received by the Local Authority where these issue are raised, that there is no supporting information provided by, for example, an independent valuer or estate agent, which confirms this to be the case. In the absence of same, I cannot therefore state with any certainty that this has been and would continue to be the case, i.e. whereby the proposed development has impacted on Property Sales and would serve to Depreciation in Property Values in the area.

8.7.16. As noted further above, the Local Authority has determined the existing development to represent unauthorised development. A planning Enforcement Notice was issued in October 2021. The opinion of one of the third parties, as raised in 1 no. submission to the planning application, that the Applicant has demonstrated a Past Failure to Comply, is not disputed. In this regard, the Commission is reminded of the provisions of Section 35 1) of the Planning and Development Act, 2000, as amended, which relates to Refusal of planning permission for past failures to comply.

9.0 Appropriate Assessment Screening

9.1. Screening Determination

(See Template 2: Standard AA Screening Determination Template (Test for likely significant effects) attached as an Appendix to this Report).

Finding of likely significant effects

In accordance with Section 177U of the Planning and Development act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development could result in significant effects of the Slaney River Valley SAC in view of the conservation objectives of a number of qualifying interest features of the said site.

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

10.0 Water Framework Directive

- 10.1. The subject appeal site is located in the rural townland of Balleynabarney, Wingfield, County Wexford. The proposed development comprises retention of a temporary motocross training facility, 5 year temporary permission for the temporary motocross club training facility, permission to convert existing container into a temporary site office/ storage and all associated site works. The Rosnastraw Stream_10 (IE_SE_12R010200) traverses the northern site boundary of the motocross track within the subject appeal site, the WFD status of which is stated to be 'Good' and 'Not at Risk'. The Ballyglass Groundwater Body (Groundwater Body Code: IE_SE_G-011) underlies the site, the WFD status of which is stated to be 'Good' and 'At Risk'.
- 10.2. The issue of assessment for compliance with the Water Framework Directive is raised in the Appeal.
- 10.3. I have assessed the temporary motocross training facility to be retained and the proposed conversion of the existing container into a temporary site office/ storage

and all associated works, and I have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no evidence as to a potential risk to surface and groundwater water bodies both qualitatively or quantitatively.

10.4. The reason for this conclusion is as follows:

- The size, scale and nature of the proposed development in an un-serviced rural area outside any defined settlement boundary.
- The location of the subject appeal site, distance to the nearest water bodies and potential for direct hydrological connections.
- A WFD status of 'Good' has been recorded for the periods 2016 to 2021 and 2019 to 2024 when the site was in operation as a motocross facility. No water quality deterioration recorded for said periods.

10.5. I conclude that, on the basis of objective information, the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

11.1. I recommend that permission be refused for the reasons set out hereunder.

12.0 Reasons and Considerations

1. Having regard to the threshold set out in Class 11 (a) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 to 2025, which refers to '*all permanent racing and test tracks for motorised vehicles*', the nature of the development proposed to be retained, which has already been in place in excess of 5 years and is not therefore considered to be temporary and the scale and intensity of the subject proposal, the Commission is not satisfied that the Applicant has suitably demonstrated that the proposed development to be retained is not subject to a mandatory Environmental Impact Assessment (EIA). The Applicant has not submitted an Environmental Impact Assessment Screening Report which would assist the Commission in determining the requirement for an Environmental Impact Assessment (EIA). In the absence of such information, the Commission is not satisfied that the proposed development to be retained is in accordance with the proper planning and sustainable development of the area.
2. The development proposed to be retained is located adjacent to the Rosnastraw Stream_10 which is hydrologically linked to the Slaney River Valley SAC (Site Code 000781), a designated Natura 2000 site. Having regard to the nature of the development proposed to be retained, the extent of existing siltation and sedimentation in existing watercourses on site which are connected to the Rosnastraw Stream and partially within Flood Zone A, the associated ecological risks arising and the absence of a Natura Impact Statement to facilitate a Stage 2 Appropriate Assessment, the Commission cannot conclude that the development would not adversely impact the integrity of the Natura 2000 sites and the associated conservation objectives. The proposed development would therefore conflict with Objective NH08 of the Wexford County Development Plan, 2022 to 2028 which is '*To ensure that any plan/project and any associated works, individually or in combination with other plans or projects, are subject to Screening for Appropriate Assessment to ensure there are no likely significant effects on any Natura 2000 site(s) and that the requirements of Article 6(3) and 6(4) of the EU Habitats Directive are fully satisfied. Where a plan/project is likely to have a significant effect on a*

Natura 2000 site or there is uncertainty with regard to effects, it shall be subject to Appropriate Assessment. The plan/project will proceed only after it has been ascertained that it will not adversely affect the integrity of the site or where, in the absence of alternative solutions, the plan/project is deemed by the competent authority imperative for reasons of overriding public interest.'

The development to be retained would therefore be contrary to the proper planning and sustainable development of the area. Section 34 (12) of the Planning and Development Act, 2000, as amended, provides that a retention application cannot be considered by a planning authority for a development which would have required Appropriate Assessment (AA). The Commission, therefore, is precluded from considering a grant of planning permission in this case.

3. The Noise Impact Assessment submitted as part of the planning application is considered to be outdated, is not reflective of the current pattern of development in the area and has omitted relevant nearby noise sensitive receptors in the form of 3 no. residential properties. In addition, no regard has been had to the sensitivity of the subject appeal site in terms of its proximity to Annagh Hill which as per the Wexford County Council Noise Action Plan, 2019 to 2023, is identified as a Potential Quiet Area in Open Country. The development proposed to be retained, therefore, as presented, is considered to conflict with Objective N03 of the Wexford County Development Plan, 2022 to 2028 which is '*to have regard to the Wexford County Council Noise Action Plan 2019-2023, in particular Appendix B Roadways Qualified for Noise Mapping, Appendix C Strategic Noise Maps and Appendix D Potential Noise Hotspots, in the preparation of future local area plans and to ensure that planning applications comply with the provisions and requirements of that plan, and any future revisions/update to it.*' The development proposed to be retained is therefore not considered to be in accordance with the proper planning and sustainable development of the area.
4. The proposed development, as presented, does not include an Ecological Impact Assessment Report which would assist in determining the ecological baseline and the overall ecological impact of the proposed development. Having regard to the size, scale and nature of the proposed to be retained

and the potential for ecological impacts to arise, it is considered that the development proposed to be retained, and by reason of the absence of a suitably scoped Ecological Impact Assessment Report, including an appraisal of potential Invasive Species and observation of appropriately sized riparian zones throughout conflicts with Objective NH09 of the Wexford County Development Plan, 2022 to 2028 which is '*to ensure the protection of areas, sites and species and ecological networks/corridors of local biodiversity value outside the designated sites throughout the county and to require an ecological assessment to accompany development proposals likely to impact on such areas or species.*' The development proposed to be retained is therefore not considered to be in accordance with the proper planning and sustainable development of the area.

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

F O'Donnell
Planning Inspector

17th December 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-320962-24
Proposed Development Summary	Retention of a temporary motocross training facility, 5 year temporary permission for the temporary motocross club training facility, permission to convert existing container into a temporary site office/storage and all associated site works.
Development Address	Ballynabarney, Wingfield, Gorey, Co. Wexford.
<p>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</p> <p>(For the purposes of the Directive, "Project" means:</p> <ul style="list-style-type: none"> - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources) 	
<p>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</p>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	

3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?

<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	Class 11 a) All permanent racing and test tracks for motorised vehicles.

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	ABP-320962-24
Proposed Development Summary	Retention of a temporary motocross training facility, 5 year temporary permission for the temporary motocross club training facility, permission to convert existing container into a temporary site office/storage and all associated site works.
Development Address	Ballynabarney, Wingfield, Gorey, Co. Wexford.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<p>The subject appeal site has a stated site area of 3.13 hectares and comprises a former sand and gravel quarry which is currently in use as a motocross training facility. Surface water from the site is proposed to discharge to surrounding watercourse. There is no wastewater treatment system proposed on the subject site. It is proposed to utilise a portaloo, the effluent from which is proposed to be collected and disposed of by a licensed contractor to a licensed waste facility. Part of the subject site, comprising the access road and a portion of the north of the motocross facility site is located with Flood Zone A. No hardstanding areas are proposed. The structures on site are proposed to comprise a steel container and a portaloo.</p> <p>The nearest European site is estimated to be located c. 6.7 km to the Northwest. There is a direct hydrological connection from the subject appeal site to said European site. The adjacent forestry lands to the immediate east and south were felled in recent years.</p> <p>It has not been suitably demonstrated that the proposed development would not result in a negative noise impact/ nuisance for nearby residential properties.</p>
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites,	There are no protected structures on the site or in the surrounding area or buildings or features listed on the National Inventory of Architectural Heritage (NIAH). The site is not located within or adjacent to sensitive sites or European Sites including any Natura 2000 sites. The site is not located within what can be considered to be a densely populated area and is not within an area of archaeological significance.

densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the character, location, nature and extent of the proposed development which, although advertised as a temporary motocross training facility, includes a track for the racing of motocross bikes, and having regard to the fact that said track has been in place for a period in excess of 5 years and is proposed to operate for a further temporary period equating to a total period of 9 years, the proposed development, is considered to be permanent as opposed to temporary in nature.</p> <p>In addition, there are concerns as to the potential for significant effects of the proposed development in terms of ecological and noise impacts, arising as a result of the proposed development.</p>
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIAR is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.
There is a real likelihood of significant effects on the environment.	EIAR required.

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)

Template 2: Standard AA Screening Determination Template
Test for likely significant effects

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Brief description of project	<p>Retention of a temporary motocross club training facility, 5 year permission for the temporary motocross club training facility, permission to convert existing container into a temporary site office/ storage, associated site works and services.</p> <p>Additional elements not directly referenced in the public notices but shown on either the proposed site layout drawings or referenced in the Application documentation include a tree-break sound barrier along the northern site/ field boundary a portaloo and an informal car parking area.</p>
Brief description of development site characteristics and potential impact mechanisms	<p>The proposed development site has a stated site area of 3.13 hectares and comprises an existing motocross training facility, storage shed (steel shipping container) and an existing access track from the L3214 to the north. The site of the motocross track is higher than the public road and the associated access track. The land to the rear east, southeast, south and southwest of the motocross track, which comprised mature forestry, has recently been felled.</p> <p>The existing facility, which does not have the benefit of planning permission, has been in place for a number of years. The Applicant is seeking retention of the temporary motocross club training facility for a temporary period of 5 years (see development description in the site notices).</p> <p>There are direct hydrological connection/s between the subject site and the Slaney River Valley SAC (Site Code: 000781) located c. 6.7 km to the northwest. The Rosnastraw_10 Stream traverses the northern part of the site, flows in a western direction where it then flows in a general northwest direction for a distance c. 6.5 km and connects with the Derry River (Derry_20) to the south of Tinahely Village which forms part of the SAC.</p> <p>Prior to crossing the northern site boundary, the Rosnastraw Stream_10 flows from the adjacent forestry lands to the west of the existing motocross track.</p>

	<p>The site is that of a former sand and gravel quarry.</p> <p>Surface water discharges from the site are proposed via adjacent watercourse/s.</p> <p>At the time of my site inspection there was sediment in an existing drainage channel within the motocross track site.</p>
Screening report	Yes (Local Authority Appropriate Assessment Screening Report)
Natura Impact Statement	No
Relevant submissions	<p>1. The Third Party Appellant submits there is potential for significant negative effects on the Slaney River Valley SAC as a result of the proposed development and associated activities. A Stage 2 Appropriate Assessment and Natura Impact Statement (NIS) is required.</p> <p>The Third-Party Appeal includes input from the Appellants Appointed Ecologist. Issues raised include the following:</p> <ul style="list-style-type: none"> • The subject appeal site is hydrologically linked to the Slaney River Valley SAC. • There is potential for significant negative effects on the Slaney River Valley SAC as a result of the proposed development and associated activities. A Stage 2 Appropriate Assessment and Natura Impact Statement (NIS) is required. • The proposal has not been subject to a valid AA Screening as the determination of the Local Authority is not reasoned and does not consider surface water run-off from the development into adjoining streams which are hydrologically linked to the SAC. • An appointed Ecologist acting on behalf of the Appellants submits that the Qualifying Interests (QI) of the Slaney River Valley SAC are dependent upon water quality and that having regard to the Conservation Objectives of said SAC there is potential for significant negative effects on the conservation objectives of certain QI, including: <ul style="list-style-type: none"> - 1096 Brook Lamprey (<i>Lampreta planeri</i>) - 1099 River Lamprey (<i>Lampetra fluviatilis</i>)

	<ul style="list-style-type: none"> - 1106 Atlantic Salmon (the Derry River is stated to be an important tributary for Salmon spawning). - A decline on water quality is also stated to present a potential indirect effect on 1355 Otter (Lutra Lutra) as well as a potential for significant negative effects on: <ul style="list-style-type: none"> - Old oak woodlands 91A0 - Alluvial woodlands 91E0 <p>2. Department of Housing, Local Government and Heritage – Development Applications Unit (DAU) (National Parks and Wildlife). Issues raised include:</p> <p><u>Nature Conservation:</u></p> <ul style="list-style-type: none"> • A site inspection was carried out on 28th November 2024. 2 no. watercourses were noted to border the site to the north, as follows: <ul style="list-style-type: none"> • The Rosnastraw Stream (_010) and • An unnamed stream which flows into the Rosnastraw Stream 150 metres further downstream. • Concerns are raised regarding existing silt in one of 3 no. existing direct connections from the site to the said watercourses. • Concerns are raised that without mitigation there may be potential for release of large amounts of silt and sediment material into Rosnastraw Stream, which is hydrologically connected to the Slaney River Valley Special Area of Conservation (SAC) (Site Code: 000781), 6.7 km downstream. • When carrying out Appropriate Assessment, An Bord Pleanála/ the Council must ensure this development will not serve to result in an adverse impact upon the said European Site at any stage of the development, including the construction and operational phases.
--	--

The Local Authority Appropriate Assessment Screening concludes there is no potential for significant effects to Natura 2000 sites. The Local Authority further state that having regard to the

precautionary principle, it is considered that significant impacts can be ruled out and that Stage 2 Appropriate Assessment is not required.

Step 2. Identification of relevant European sites using the Source-pathway-receptor model

1 no. European Site (1 no. SAC) is identified as being within a potential zone of influence for the proposed development as detailed below. The 1 no. European site has a potential direct hydrological pathway to the site. I note the Local Authority Appropriate Assessment Screening Report considered the same 1 no. SAC (within 15 km).

Slaney River Valley SAC is linked to the Proposed Development site via an existing hydrological pathway and is therefore considered to warrant further consideration.

European Site (code)	Qualifying interests¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections²	Consider further in screening³ Y/N
Slaney River Valley SAC (Site Code 000781)	Slaney River Valley SAC National Parks & Wildlife Service	6.7 km to the northwest.	Direct Hydrological Connection via surface water/ stream/ river on site.	Yes

The Third Party Appellant submits that there is potential for significant negative effects on the Slaney River Valley SAC as a result of the proposed development and associated activities.

The Appellant submits that a Stage 2 Appropriate Assessment/ Natura Impact Statement (NIS) is required.

An Appointed Ecologist acting on behalf of the Appellants submits that the proposal has not been subject to a valid AA Screening as the determination of the Local Authority is not reasoned and does not consider surface water run-off from the development into adjoining streams which are hydrologically linked to the SAC.

In addition, the same Appointed Ecologist, acting on behalf of the Appellants submits that the Qualifying Interests (QI) of the Slaney River Valley SAC are dependent upon water quality and that having regard to the Conservation Objectives of said SAC there is potential for significant negative effects on the conservation objectives of certain named Qualifying Interests (QI) (See Step 1 above).

The Department of Housing, Local Government and Heritage – Development Applications Unit (DAU) (National Parks and Wildlife) raise a number of Nature Conservation concerns. In particular, concerns are raised in relation to existing silt in one of 3 no. existing direct hydrological connections to the SAC from the site and that without mitigation there may be potential for release

of large amounts of silt and sediment material into Rosnastraw Stream, which is hydrologically connected to the Slaney River Valley Special Area of Conservation (SAC) (Site Code: 000781), 6.7 km downstream.

At the time of my site inspection there was sediment in an existing drainage channel within the motocross track site.

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

The proposed development will not result in any direct effects on the SAC. However, due to the nature, size and scale and proximity of the proposed development to the Slaney River Valley SAC, impacts generated by the operation and construction of the motocross facility require consideration.

Sources of impact and likely significant effects are detailed in the Table below.

Appropriate Assessment Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Site 1: Slaney River Valley SAC (Site Code: 000781)		
QI list		
1029 Freshwater Pearl Mussel (<i>Margaritifera margaritifera</i>)	<u>Direct:</u> None <u>Indirect:</u> Negative impacts on surface water/water quality due on-site emissions including increased sedimentation and potential pollution.	<u>Direct:</u> None <u>Indirect:</u> Potential negative affect on habitat quality/ function and prey availability
1095 Sea Lamprey (<i>Petromyzon marinus</i>)	Potential for Invasive Species.	Potentially undermine conservation objectives related to water quality
1096 Brook Lamprey (<i>Lampetra planeri</i>)		Potential to introduce Invasive Species
1099 River Lamprey (<i>Lampetra fluviatilis</i>)		
1103 Twaite Shad (<i>Alosa fallax</i>)		
1106 Atlantic Salmon (<i>Salmo salar</i> (only in fresh water))		

<p>1130 Estuaries</p> <p>1140 Mudflats and sandflats not covered by seawater at low tide</p> <p>1355 Otter (<i>Lutra lutra</i>)</p> <p>1365 Harbour Seal (<i>Phoca vitulina</i>)</p> <p>3260 Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation</p> <p>91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>91E0 * Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>)</p>		
	Likelihood of significant effects from proposed development (alone): Yes	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? N/a	
	Possibility of significant effects (alone) in view of the conservation objectives of the site. Yes – see below	
<p>The following Qualifying Interests of the Slaney River Valley SAC have Conservation Objectives to <u>Restore Favourable Conservation Conditions</u>:</p> <ul style="list-style-type: none"> • 1095 Sea Lamprey (<i>Petromyzon marinus</i>), • 1096 Brook Lamprey (<i>Lampetra planeri</i>), • 1099 River Lamprey (<i>Lampetra fluviatilis</i>), • 1103 Twaite Shad (<i>Alosa fallax</i>), • 1106 Atlantic Salmon (<i>Salmo salar</i>) (only in fresh water), • 1355 Otter (<i>Lutra lutra</i>), 		

- 91A0 **Old sessile oak woods** with *Ilex* and *Blechnum* in the British Isles,
- 91E0 * **Alluvial forests** with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*),

Having regard to the

- the presence of sediment in an existing on site drainage channel with in the motocross track site at the time of my site inspection,
- the photograph which accompanies the 2 no. Local Authority Planners Assessment Reports attached to the previous planning file on the subject site, planning ref. no. 20220985, which clearly shows sediment in an existing onsite drainage channel and refers to a lack of detail on silt traps,
- the location of the site access road and the northern part of the motocross track area and site compound and car parking area within Flood Zone A,
- the lack of a sufficiently sized riparian buffer zone from the existing on site watercourse/ drainage channel in accordance with the provisions of Objective GI05 of the Wexford County Development Plan, 2022 to 2028,
- the lack of any mitigation measures presented by the Applicant,
- the on-site observations of the Department of Housing, Local Government and Heritage – Development Applications Unit (DAU) (National Parks and Wildlife) where large amounts of silt were observed in a dry drainage channel on site which flows directly to the Rosnastraw Stream (_10) which is hydrologically linked to the SAC,
- the observations of the Appointed Ecologist acting on behalf of the Third-Party Appellant and the potential for in-combination effects from adjacent lands served by the same watercourse, and
- the above Qualifying Interests and their associated Conservation Objectives to restore favourable conservation conditions,

I am satisfied that the proposed development, as presented, may compromise the conservation objectives of the abovementioned Qualifying Interests to restore favourable conservation conditions and would present significant effects on the River Slaney Valley SAC. The River Slaney Valley SAC supports several Annex I Habitats and Annex II Animal species.

Step 4 Conclude if the proposed development could result in likely significant effects on a European site

Based on the information provided, site visit, review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result in significant effects on the Slaney River Valley SAC.

In my opinion, such impacts could be significant in terms of the stated conservation objectives of the SAC when considered on their own and in combination with other projects and plans in relation to disturbance on qualifying interests and species.

Screening Determination

Finding of likely significant effects

In accordance with Section 177U of the Planning and Development act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development could result in significant effects of the Slaney River Valley SAC in view of the conservation objectives of a number of qualifying interest features of the said site.

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

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Coimisiún Pleanála ref. no.	ABP-320962-24	Townland, address	Ballynabarney, Wingfield, County Wexford.
Description of project		Retention of a temporary motocross training facility, 5 year temporary permission for the temporary motocross club training facility, permission to convert existing container into a temporary site office/storage and all associated site works.	
Brief site description, relevant to WFD Screening,		The subject appeal site is that of a former Sand and Gravel Quarry and is in current use as a motocross facility. The site falls in a general south to north direction. The site of the motocross track is higher than the public road and the associated access track. The land to the rear east, southeast, south and southwest of the motocross track, which comprised mature forestry, has recently been felled. Surface water discharges from the site are proposed via adjacent watercourse/s. At the time of my site inspection there was sediment in an existing drainage channel within the motocross track site. The Rosnastraw_10 Stream traverses the northern part of the site, flows in a western direction, has a Good WFD status and is identified as being Not at Risk of not achieving its WFD status. Prior to crossing the northern site boundary, the	

	<p>Rosnastraw Stream_10 flows from the adjacent recently felled forestry lands to the west of the existing motocross track.</p> <p>It is noted that the Rosnastraw Stream_10 recorded a Moderate Status for the years 2010 to 2015 and 2013 to 2018 and for the periods 2016 to 2021 and 2019 to 2024 has a Good Status. The Water Framework Directive (WFD) Status of the Rosnastraw Stream_10 is stated to be Not at Risk.</p>
Proposed surface water details	<p>It is proposed to discharge surface water from the subject appeal site to adjacent watercourse. The surface waters receiving surface water are at good status.</p>
Proposed water supply source & available capacity	<p>In Q. 20 (Services) of the Application form, the Applicant has not indicated the intended source of water supply or indicated whether or not this is existing or proposed.</p>
Proposed wastewater treatment system & available capacity, other issues	<p>There is no wastewater treatment system proposed on the subject site. It is proposed to utilise a portaloo, the effluent from which is proposed to be collected and disposed of by a licensed contractor to a licensed waste facility. The applicant states that most people who attend the on-site training have campervans with their own toilets and that this will reduce the demand on an onsite toilet. The applicant states there will be no materials, including paints, diesel for the maintenance tractor, chemical substances/ liquids or hazardous waste will be stored on site. The applicant states there will be a wheeled spill kit on site to deal with any accidental spills or leaks.</p>
Others?	N/a

Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g. at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface runoff, drainage, groundwater)
River Waterbody	Traverses the north of the site	Rosnastraw Stream_10 (IE_SE_12R010 200)	Good	Not at risk	No pressures identified	The site drains towards the watercourse - Screened in
Groundwater Waterbody	Underlying site	Ballyglass IE_SE_G-011	Good	At risk	Agriculture and Unknown	Former Sand and Gravel Quarry – porous material – free draining -

							Screened in
--	--	--	--	--	--	--	-------------

Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.

CONSTRUCTION PHASE

No.	Component	Waterbody receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Surface Water	Rosnastraw Stream_10 (IE_SE_12R0 10200)	Existing drainage ditches, watercourse	Sedimentation, Siltation, Hydrocarbon	No mitigation measures proposed or conditioned to	No – The WFD status of 'Good' has been recorded for the periods 2016 to 2021	Screened out

				spillages/ leaks	protect water quality from sedimentation or siltation. See Mitigation Measures below for Hydrocarbon Spillages.	and 2019 to 2024 when the site was in operation as a motocross facility. No water quality deterioration recorded for said periods.	
2.	Groundwater	Ballyglass IE_SE_G-011	Existing pathway exists. The removal of a former protective layer of soil, subsoil, sand and gravel increases vulnerability of the underlying bedrock to contamination.	Hydrocarbon Spillages	Mitigation proposed to avoid hydrocarbon spillages include no materials, including paint, chemicals or liquids to be stored on site and a Spill kit on site to deal with accidental spillages.	No	Screened out

OPERATIONAL PHASE							
3.	Surface Water	Rosnastraw Stream_10 (IE_SE_12R0 10200)	Existing drainage ditches, watercourse	Siltation, Hydrocarbon spillages	No mitigation measures proposed or conditioned to protect water quality. See Mitigation Measures below for Hydrocarbon Spillages.	No – The WFD status of 'Good' has been recorded for the periods 2016 to 2021 and 2019 to 2024 when the site was in operation as a motocross facility. No water quality deterioration recorded for said periods.	Screened out
4.	Groundwater	Ballyglass IE_SE_G-011	Existing pathway exists. The removal of a former protective	Hydrocarbon spillages	Mitigation proposed to avoid hydrocarbon spillages include no materials, including	No	Screened out

			layer of soil, subsoil, sand and gravel increases vulnerability of the underlying bedrock to contamination.		paint, chemicals or liquids to be stored on site and a Spill kit on site to deal with accidental spillages.		
DECOMMISSIONING PHASE							
5.	NA						