



An  
Coimisiún  
Pleanála

## Inspector's Report

### ABP-321082-24

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#### Development

Construction of 8 mobile homes, sporting facilities, hard standing area for vehicular storage and parking and all site works and landscaping features.

#### Location

Jack's Hole Beach Resort,  
Ballynacarrig, Brittas Bay, Co.  
Wicklow, A67 YC91

#### Planning Authority

Wicklow County Council

#### Planning Authority Reg. Ref.

2460458

#### Applicant(s)

Jack's Hole Beach Resort DAC

#### Type of Application

Permission

#### Planning Authority Decision

Refuse

#### Type of Appeal

First Party

#### Appellant(s)

Jack's Hole Beach Resort

#### Observer(s)

- Christine Carey and Michael Keatings

- Seamus Doherty and Tom O'Connor
- Emma Lamb and Peter Lynch
- Celine Marah

**Date of Site Inspection**

15<sup>th</sup> January 2026

**Inspector**

Terence McLellan

## 1.0 Site Location and Description

- 1.1. The subject site forms part of the Jack's Hole Beach Resort, located on the coast in the townland of Ballynacarrig, close to the settlement of Ballynacarrig-Brittis Bay. The site is accessed via electric gates from the seaward side of the R750. The subject site itself measures approximately 3.55 hectares and the wider Jack's Hole Resort measures c. 29.11 hectares.
- 1.2. The land slopes downwards towards the coast from the R750 and the subject site therefore sits below the coastal road. The specific lands that are the subject of this application are located to the south of the existing access road and quite separate to the main beach resort existing accommodation. The land is currently an open field, with some informal vehicle parking and boat storage in addition to fence enclosed tennis courts. Beyond the specific development site, the access road turns sharply to the south and descends steeply to the shore where the existing main resort accommodation and facilities are located.
- 1.3. To the north of the site is an existing caravan park. The access road, coast and existing resort form the eastern boundary. To the south of the site is an existing golf course associated with the Potter's Point Caravan Park. The R750 forms the western boundary where the automatic gate site access is located. The access point framed by mature trees and low hedging with metal palisade fencing behind. To the south of the site entrance, forming part of the western boundary of the site, is a Protected Structure (RPS Ref 31-05) known as the coastguard cottages. The site is horseshoe shaped and encloses the Protected Structure on three sides. Owing to the lack of consistent boundary hedging along the roadside, the site is partially open and visible on the approach from the north along the R750 and both around and to the rear of the Protected Structure.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the provision of an additional eight mobile home plots on land to the south of the existing access road. Each plot would accommodate a mobile home, external decking area, and private vehicle parking area with space for multiple vehicles. The mobile homes would be three bedroom/two bathroom and would measure c. 4.28m in width, 14.64m in depth, and 3.49m in height, noting that heights

above ground would range significantly given changes in topography. The development also includes the provision of two pickleball courts, a padel tennis court, and a five-a-side football pitch. The pickleball courts and five-a-side pitch would be enclosed by steel post and mesh panel fencing up to 3m in height. The padel ball court would be enclosed by a similar fence incorporating glass panelling and extending to a height of 4m.

- 2.2. To the north of the existing access road a new parking/hardstanding area would be provided for the storage of boats and jet skis as well as additional car parking spaces. From the plans submitted it appears that there is proposed capacity for seven jet skis, seven boats, 13 car spaces and a further six spaces that are undefined. The overall development includes extensive landscaping proposals including the formation landscaped berm mounds and tree planting to provide screening from the public road and the Protected Structure. Further site development works include the provision of water features/swales, drainage works, lighting, and the provision of footpaths. Water supply would be drawn from a private well and foul sewage would be dealt with by way of the existing on-site Wastewater Treatment System (WWTS).

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Planning permission was refused by Wicklow County Council by order dated 20<sup>th</sup> September 2025 for the following four reasons:

1. Having regard to:

- a) The location of the development outside the settlement boundary of Ballynacarrig-Brittias Bay, within an Area of Outstanding Natural Beauty and removed from the existing mobile home park;
- b) Prospect 31 along the R750 Wicklow to Arklow i.e. Views towards sea from Coast Road;
- c) The nature, extent and appearance of the proposed development, comprising mobile homes, synthetic sports pitches and associated fencing, parking area and access road and associated structures, lighting, paths and landscaping;

- d) The level of modification of the existing topography, including excavation and formation of earth berms, and removal of existing vegetation;
- e) The impact of the proposed development on the setting and character of the Protected Structure (Coastguard Cottage Ref 31-05);
- f) The need to remove roadside vegetation to achieve sightlines and the visual impact this will have on this Area of Outstanding Natural Beauty and Prospect 31;

It is considered the development would detrimentally impact on the visual amenities of this sensitive area and would seriously interfere with the protected prospect and Protected Structure. The development would therefore be contrary to proper planning and sustainable development.

2. The proposed development would represent the consolidation of unauthorised development on this site, having regard to the non-compliance of the development on this site with the terms and conditions of PRR 89/4826 and due to there being 9 no. units on site for which no permission exists. The provision of such a form of development unduly impacts on the amenities of the area, the amenities of adjoining properties, undermines the planning regulations and would be contrary to the proper planning and sustainable development of the area.
3. Having regard to:
  - a) the lack of details to determine if the Wastewater Treatment Plant is capable of treating the wastewater to the required standard;
  - b) The flow figures being very low based on 75 units with an average of 3 persons and no fluctuation in the flow figures between April and August;
  - c) The lack of evidence from a competent person/contractor with experience in the installation of wastewater treatment systems to certify that the WWTP and all components are fit for purpose and fully operational.

It is considered that insufficient information has been submitted to show that there is sufficient capacity available to service the proposed development

resulting in a public health hazard, which would be contrary to proper planning and sustainable development.

4. Insufficient information has been submitted to show that the required sightlines can be achieved at the entrance to the site. To permit the development in the absence of such information would be contrary to proper planning and sustainable development.

## 3.2. Planning Authority Reports

3.2.1. The Planner's Report contains the following points of note:

- Development can be supported subject to the character, environmental quality, and amenity of the rural area not being adversely impacted.
- Principle of tourism facilities is established by the existing development. However, this rural area is particularly pristine, being an AONB located adjacent to Prospect 31 and adjacent to a Protected Structure.
- The existing mobile homes are located close to the sea and not visible from the road due to the existing natural screening. The proposed mobile homes are to be located closer to the road and are likely to be visible.
- Development and design standards state that sites should have significant existing natural screening. Full screening isn't available along the roadside boundary, particularly to the rear of the coastguard cottages.
- All screening along the roadside boundary would need to be removed to achieve the required sightlines for traffic safety, contrary to CPO 17.23.
- The development would have an impact on the Coastguard Cottages (Protected Structure) which the Owner's submission states were constructed to provide views to the coast. Both the pathway and the view of the coast are impacted upon by the proposed development.
- Prospect 31 looks towards the sea from the R750. Further viewpoints could have been considered in the LVIA. There are gaps in boundary vegetation that will allow views of the development and had the LVIA been carried out in wintertime then greater views of the development would be possible.

- Screening around the entrance would need to be removed to accommodate sightlines and as such the screening relied on in the LVIA is not considered to be accurate.
- The proposed development will have a negative visual impact on the AONB and on Prospect (31) of the coast from the regional road.
- The development would represent the consolidation of unauthorised development including the location of the traffic barrier and the overall number of units being in excess of what is permitted.
- The gated entrance does not have permission and does not comply with CDP objectives. Retention permission has not been sought for the gate.
- There is insufficient information regarding wastewater treatment, including if the existing plant is capable of accommodating the new mobile homes, if it is treating water to the required standard, and if it is fit for purpose.

### 3.3. Other Technical Reports

3.3.1. **Climate, Environment, Recreation, and Amenity (31.07.2024):** There is insufficient information to determine if the WWTP is capable of accommodating the development and treating water to the required standards. Further Information was recommended on the following matters:

- Demonstrate that the WWTP can service the existing caravan park and the additional mobile homes and can treat wastewater to the required standard. Provide peak flow and mass loading figures based on maximum use. Provide certification that the WWTP and its components are operational and fit for purpose.
- Apply to review current discharge licence to support compliance with new standards.
- Proposed WWTP to be approved by the Council prior to installation and shall meet relevant standards regarding disinfection performance.

3.3.2. **Municipal District Engineer (16.09.2024):** Sightlines can only be achieved if planting is removed (not trimmed). Removal of vegetation will expose the fence which is not in

keeping with the area. The development will result in increased traffic and warning signage, and road markings are required. Further information was recommended to address these concerns.

- 3.3.3. **Chief Fire Officer (13.08.2024):** The response sets out various standards that would apply to the development that should be secured by condition.

#### 3.4. **Prescribed Bodies**

- 3.4.1. **Department of Housing, Local Government, and Heritage (30.08.2024):** The site is located in the environs of Recorded Monuments WI036-026, WI036-014, WI036-013, and WI036-012 which are subject to statutory protection. The presence of identified archaeological sites in the area indicates potential for the survival of archaeological remains associated with historic coastal settlement. The Department therefore recommend that a detailed and field-based Archaeological Impact Assessment Report be requested as Further Information.

#### 3.5. **Third Party Observations**

- 3.5.1. Four submissions were received in response to the planning application. The observations raise similar points to those raised in observations made on the appeal, which are set out in detail in Section 7.4 below.

## 4.0 **Planning History**

### *Subject Site*

- 4.1.1. **ACP Reference 130901/Planning Authority Reference 02/6146:** Permission was refused by the Commission in March 2003 for the development of 27 holiday mobile homes and ancillary development works. Permission was refused for the following reasons:

1. Having regard to the provisions relating to the site as set out in the current Development Plan for the area which provisions are considered reasonable, it is considered that the proposed development located on the seaward side of the road would conflict with the County Development Plan policy for maintaining the carrying capacity of the receiving environment as expressed in the Coastal Zone Management Plan, would seriously injure the amenity views of the sea and would seriously injure the unique rural, scenic and recreational value of the

area. The proposed development would, therefore, be contrary to the proper planning and development of the area.

2. It is considered that the proposed development, together with the proposed screening measures would be visually intrusive in this Area of Outstanding Natural Beauty and would interfere with the designated Prospect 30 as listed in the current Development Plan for the area. The proposed development would, therefore, be contrary to the proper planning and development of the area.
3. The Board is not satisfied on the basis of submissions made in connection with the planning application and appeal that the wastewater treatment plant can satisfactorily serve the proposed development. The proposed development would, therefore, be prejudicial to public health.

4.1.2. **Planning Authority Reference 99/1831:** Permission was refused by Wicklow County Council in April 2000 for the provision of 31 additional mobile homes on an existing mobile home park. Permission was refused for the following reasons:

1. The proposed development would be contrary to coastal development policy, as expressed in Sections 3.3.11 and Appendix 7 of the County Development Plan, in that the proposed development is located between the sea and the road and therefore is considered to have a detrimental impact on amenity views of the sea and would alter the unique rural, scenic and recreational value of the area.
2. The proposed development would be visually intrusive being located at a sensitive coastal location that is unscreened and open to views particularly from the north and west and would impinge on the following prospect as described in the County Development Plan 1999: Prospect 30 - R750 Wicklow to Arklow - Prospect towards sea from coast road.
3. The proposed development could be prejudicial to public health because no evidence has been submitted that the existing water supply and effluent disposal system is adequate to cater for the proposed development.

No environmental impact assessment has been carried out which is necessary as the proposed development would result in there being in excess of 100 units on the site.

- 4.1.3. **ACP Planning Authority Reference 92/8661:** Permission was granted by the Commission County Council in July 1993 for the provision of nine mobile homes and the retention of three existing mobile homes with associated roads and services.
- 4.1.4. **ACP 091086/Planning Authority Reference 92/8660:** Permission was granted by the Commission in July 1993 for a revised layout for 66 mobile homes and five additional mobile homes. Condition 2 omitted 21 mobile homes.
- 4.1.5. **ACP 81179/Planning Authority Reference 89/4826:** Permission was granted by the Commission in April 1990 for the provision of 61 mobile homes.

#### *Adjacent Sites*

#### Coastguard Cottages

- 4.1.6. **Planning Authority Reference 21/1388:** Permission was granted by Wicklow County Council in April 2022 for the demolition of non-original extensions, part demolition of rear outbuildings, internal and external refurbishment, construction of a single storey extension to the rear with glazed link.

#### **Pre-planning (PP23/64)**

- 4.1.7. Pre-planning discussions highlighted that any future development would have to be justified in terms of impacts on the AONB, Prospect 31, proximity to the Protected Structure, and impacts on views. Additionally, it was stated that a technical assessment of the WWTP would be required in addition to evidence that water supply is sufficient. The summary provided states that the development is unlikely to be supported unless it is shown that the new units/facilities would be located proximate to the main park area, modest in scale and with no negative impacts. The Planning Authority note that the proposal does not adhere to the advice given.

#### **Enforcement**

- 4.1.8. A letter was issued to Jack's Hole Beach Resort in 2019 outlining non-compliance with terms of the planning permission pertaining to the site in regard to the unauthorised location of the vehicle barrier, the presence of nine units without the benefit of planning permission, non-compliance in terms of unit type, and the opinion that the existing units were modular homes. No details are provided as to the outcome of any subsequent enforcement investigation.

## 5.0 Policy Context

### 5.1. National Planning Framework First Revision (April 2025)

- 5.1.1. NPO52 - Ensure that Ireland's coastal resource is managed to sustain its physical character and environmental quality.
- 5.1.2. NPO91 - Facilitate landscape protection, management and change through the preparation of a National Landscape Character Map and development of guidance on local landscape character assessments, (including historic landscape characterisation and including coastal landscapes and seascapes) to ensure a consistent approach to landscape character assessment, particularly across planning and administrative boundaries.

### 5.2. Wicklow County Development Plan 2022-2028

- 5.2.1. The site is located within Coastal Area of Outstanding Natural Beauty (AONB) 2(b) – The Southern Coastline. This area comprises of the main sandy beaches of Brittas Bay, Ennereilly and Clogga and provides for a continuous prospect and numerous views from the coast road out to sea. Sand dunes are dominant in sections of the area forming a number of important environmental designations such as Magherabeg Dunes and Buckroneys-Brittas Dunes and Fen (NHA and SAC) and Arklow Rock/Askintinny NHA. These areas are important not just from a landscape or habitat perspective, but also are increasingly important for recreational activities, the development and promotion of which must be managed appropriately.
- 5.2.2. The site lies on Prospect 31: R750 Wicklow to Arklow - Prospect towards sea from Coast Road.

#### Chapter 4 – Settlement Strategy

- 5.2.3. The rural area forms the open countryside. It is an active and vibrant area that plays host to a range of activities including, for example, rural housing, rural recreational activities, agricultural, horticulture, forestry, aquaculture, fishing, rural tourism, rural enterprises, quarrying and extraction, landfill, renewable energy etc.
- 5.2.4. Development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area. Protection of the environmental and ecological quality of the rural area is of paramount important and

as such particular attention should be focused on ensuring that the scenic value, heritage value and/or environmental / ecological / conservation quality of the area is protected. Key objectives include:

- CPO 4.10 - To support the sustainable development of rural areas by encouraging growth while managing the growth of areas that are under strong urban influence to avoid over-development.
- CPO 4.14 - To ensure that key assets in rural areas such as water quality and natural and cultural heritage are protected to support quality of life and economic vitality.
- CPO 4.15 - To protect and promote the quality, character and distinctiveness of the rural landscape.

#### Chapter 8 – Built Heritage

5.2.5. The overall built heritage strategy seeks to ensure that the protection and conservation of the built heritage of Wicklow is an integral part of the sustainable development of the County and to safeguard this valuable, and in many instances, non-renewable resource through proper management, sensitive enhancement and appropriate development. Relevant objectives include:

- CPO 8.13 - To ensure the protection of all structures, items and features contained in the Record of Protected Structures.

#### Chapter 11 – Tourism

5.2.6. The strategy sets out that tourism services and facilities should be clustered within towns and villages. This will serve to protect the quality of the landscape and environment, foster strong links to a whole range of other economic and commercial activities, sustain the host communities and utilise existing ancillary services and facilities such as water and wastewater infrastructure, power supply etc, rather than creating a requirement for further development in the Irish landscape. Relevant objectives include:

- CPO 11.4 - To only permit the development of a tourism or recreational facility in a rural area in cases where the product or activity is dependent on its location in a rural situation and where it can be demonstrated that the proposed development does not adversely affect the character, environmental quality and

amenity of the rural area or the vitality of any settlement and the provision of infrastructure therein. The natural resource / tourist product / tourist attraction that is essential to the activity shall be located at the site or in close proximity to the site, of the proposed development. The need to locate in a particular area must be balanced against the environmental impact of the development and benefits to the local community.

- CPO 11.6 - To ensure that tourism and recreation related developments are appropriately located in the County. Subject to the following exceptions, all tourist and recreation related developments are 'open for consideration'<sup>3</sup> in all landscape areas:
  - The following tourist uses will not be permitted within the Area of Outstanding Natural Beauty (both the Mountain Uplands Area and the Coastal Area): Static caravans and mobile homes<sup>1</sup>,
  - Holiday homes will not be permitted in any landscape category other than urban zones except where they comply with objectives CPO 11.13, CPO 11.14, CPO 11.15 and CPO 11.16.
- CPO 11.19 - To give sympathetic consideration to the improvement of, and extension to, existing tourist accommodation related developments, subject to the proper planning and sustainable development of the area, and subject to compliance with all other objectives of this plan.

## Chapter 13 – Water Services

5.2.7. Management of 'water quality' refers to the biological, chemical and physical status of fresh water in the environment (rather than effluent water quality or treated water for supply). Water quality is therefore addressed in this chapter as a key factor in the delivery of water services.

- CPO 13.1 - To ensure and support the implementation of the EU Groundwater Directive and the EU Water Framework Directive and associated River Basin and Sub-Basin Management Plans and Blue Dot Catchment Programme, to ensure the protection, improvement and sustainable use of all waters in the

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<sup>1</sup> Refers to new development. Extensions to existing facilities will be considered subject to sit suitability, a modest scale, and high quality design.

County, including rivers, lakes, ground water, coastal and estuarine waters, and to restrict development likely to lead to a deterioration in water quality. The Council will also have cognisance of, where relevant, the EU's Common Implementation Strategy Guidance Document No. 20 and 36 which provide guidance on exemptions to the environmental objectives of the Water Framework Directive.

- CPO 13.2 - To prevent development that would pollute water bodies and in particular, to regulate the installation of effluent storage and disposal systems in the vicinity of natural water bodies or development that would exacerbate existing underlying water contamination.

### Chapter 17 – Natural Heritage and Biodiversity

5.2.8. This chapter sets out set out the strategies and objectives with regard to the natural heritage and biodiversity in Wicklow. The chapter also encompasses landscape conservation. Key objectives include:

- CPO 17.35 - All development proposals shall have regard to the County landscape classification hierarchy in particular the key landscape features and characteristics identified in the Wicklow Landscape Assessment (set in Volume 3 of the 2016 County Development Plan) and the 'Key Development Considerations' set out for each landscape area set out in Section 5 of the Wicklow Landscape Assessment.
- CPO17.36 - Any application for permission in the AONB which may have the potential to significantly adversely impact the landscape area shall be accompanied by a Landscape / Visual Impact Assessment, which shall include, inter alia, an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape, a series of photos or photomontages of the site / development from clearly identified vantage points, an evaluation of impacts on any listed views / prospects and an assessment of vegetation / land cover type in the area (with particular regard to commercial forestry plantations which may be felled thus altering character / visibility). The Assessment shall demonstrate that landscape impacts have been anticipated and avoided to a level consistent with the sensitivity of the landscape and the nature of the designation.

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

#### Chapter 18 Green Infrastructure

5.2.9. Green Infrastructure is defined as defined as ‘an interconnected network of green space that conserves natural ecosystem values and functions and provides associated benefits to human populations. Green Infrastructure is the ecological framework needed for environmental, social and economic sustainability – in short, it is a nation’s natural life sustaining system’. Key objectives include:

- CPO 18.13 - To facilitate greater public recreational access to the Wicklow coast and improved linkages between the coast and the coast road, subject to full ecological and heritage impact assessment and ensuring that there is no adverse impact (directly, indirectly or cumulatively) on the conservation objectives of European sites.

#### Chapter 19 – Marine Spatial Planning and Coastal Zone Management

5.2.10. The site is located within Cell 9: Brittas Bay. The cell consists of the coastal area between the R750 and the coast and generally comprises an agricultural area, with notable pockets of more intense development around Ballynacarrig (Brittas Bay), Brittas Bridge, and Cornagower, and a significant number of single rural houses and caravan parks/holiday homes. The centrepiece of this area is Brittas Bay beach. Development pressure resulting from the popularity of the area as a tourist and day-tripper destination during the summer months has resulted in the development of a number of caravan parks/holiday home developments and has created problems relating to traffic and parking. Key objectives include:

- CPO19.8 - To protect the character and visual potential of the coast and conserve the character and quality of seascapes.
- CPO 19.9 - To strictly control the nature and pattern of development within coastal areas and ensure that it is designed and landscaped to the highest standards and sited appropriately so as not to detract from the visual amenity

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

- CPO19.24 - Sets out 12 policy/objectives for Cell 9, including in relation to new tourist accommodation (Objective 8). 8(c) states that the development of any new static or touring caravan parks shall be prohibited and that the expansion of existing facilities will be considered subject to the suitability of the site and be of a modest scale and high quality design. 8 (e) states that automated gates will not be permitted on any development.

5.2.11. Appendix 1 – Development and Design Standards sets out development standards and design requirements for a range of developments. Relevant sections include:

- 5.1- General Criteria for Tourism and Recreation Developments
- 5.4 – Caravan and Camping Developments

### 5.3. Natural Heritage Designations

5.3.1. The site is not located within or immediately adjacent to any European Site. The nearest European Sites are:

- Magherabeg Dunes SAC (Site Code 001766) c. 535m to the north.
- Buckronev Brittas Dunes and Fen SAC (Site Code 000729) c.850m to the south.

### 5.4. EIA Screening

5.4.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. A First party appeal has been submitted by IMG Planning, for and on behalf of the Applicant, Jack's Hole Beach Resort DAC. The appeal is accompanied by an Architectural and Historical Significance Report, Arboricultural Statement, Conservation Engineer Statement (boundary treatments and sightlines), Wastewater Treatment Plant Capacity Assessment, and a Storm Water Management Report. The grounds of appeal can be summarised as follows:

#### 6.1.2. Reason for Refusal 1

##### Location/Principle of Development

- The site location outside the settlement boundary of Ballynacarrig-Brittas Bay and within an Area of Outstanding Natural Beauty is not a material consideration for refusing planning permission.
- Development is supported by CPO 11.4, and CPO 19.24 states that expansion of existing facilities will be considered subject to scale, design and site suitability.

##### Prospect 31 and Views

- In terms of Listed Prospect 31 (R750), the Landscape and Visual Appraisal (LVA) considered six viewpoints, with effects limited to close proximity views within 250m of the site entrance.
- The LVA categorised visual effects from 'none' to 'positive' and unlikely to have effects on views outside of the considered zones due to screening from topography/vegetation. The number and location of viewpoints clearly and adequately assess the visual impact of the development.
- The LVA should be read in conjunction with the series of photomontages which show the development in wireline, contrary to the claim of the Planning Authority.
- Prospect 31 provides broad and general vistas rather than views from specific viewpoints along its extent. There are no listed views on Prospect 31.

##### Design and Appearance

- Contrary to the Planning Authority's claim, full details of the proposed units (dimensioned plans, elevations, and external finishes) have been provided.
- High quality units are proposed, consistent with the design that has replaced older units in recent years.
- The development would only be visible from the road to a minor extent having regard to the change in levels, intervening buildings and landscaping, localised land regrading and berms, and the height of the proposed units. It would not significantly interfere with views from Prospect 31.

#### Land Modification

- Necessary localised regrading would be confined to providing level ground for the units and a 3m high landscaped berm to mitigate the visual impact of the development from the R750 and the neighbouring Coastguard Cottages.

#### Impact on Protected Structures (Coastguard Cottages)

- The cottages were not designed specifically or functionally to address the sea. They were designed as Naval and functional accommodation to a standard typology for repeated use in different locations. As such, views to the sea cannot be considered to contribute to their function or design. Coastguards were required to walk along patrol paths to monitor shipping
- The rear setting has been significantly altered by the recent extension, which is detrimental to views towards the sea from the rear.
- The development has no impact on the Coastguard Cottages, it is located to the rear of the terrace which was significantly altered by the recent extension.
- The rear setting cannot be deemed original, nor can the views of the sea or prospects be deemed significant in the provision of naval accommodation at this location.
- The cottages/terrace, site, and setting are not referred to in the listed prospect.
- The development site slopes towards the sea and does not block any views.
- The proposed planting is of an appropriate type/species and will not obstruct views from the cottages.
- Potentially large trees (oak, pine, sycamore) will be planted strategically as individual specimens rather than in groups, to frame views rather than obstruct

them. These trees are unlikely to reach maximum heights, exceed 30m due to the exposed coastal location and even if they did, they would still not obstruct views due to their limited number and location to the sides of main vistas.

- Caravans would not be visible in the view between buildings from the R750. Masts from stored boats would potentially be visible but these are typically lowered when in storage and if visible would have a minor/neutral impact, largely blending in with existing vegetation.
- Native hedges proposed on the site boundary will typically be 2-3m high. The existing boundary fence is 2m high and views of the sea will be maintained.
- Views along the patrol path would be maintained, with the gap between the caravans positioned to maintain this view, with planting within the vista typically 6m in height.
- Taken together with level changes and distance, the planting will screen the caravans without obstructing views towards the sea.

#### Removal of Vegetation for Sightlines

- No roadside vegetation removal is required to achieve sightlines. They can be achieved with regular maintenance and trimming.

#### **6.1.3. Reason for Refusal 2**

- The Planning Authority's claim regarding unauthorised development is incorrect. All 72 mobile home units in the resort have the benefit of planning permission.
- 61 units were permitted in April 1991 (ABP-81179) and a further 11 units were permitted in August 1993 (ABP-091078).
- The Planning Authority issued Section 5 Declarations in February 2019 confirming that the replacement of two units was development and was exempted development.

#### **6.1.4. Reason for Refusal 3**

- A Wastewater Treatment Plant Capacity Assessment has been undertaken and submitted with the appeal.

- The assessment sets out that the existing wastewater treatment system has capacity to accept the 232.5 PE per day which accounts for the existing 75 [sic] units and the proposed eight units.
- The systems maximum capacity is 300PE, the existing/proposed development would use 77.5% of the existing capacity, with 22.5% spare capacity remaining.
- Average flow during the peak two months is 13m<sup>3</sup> per day, with a maximum flow of 24m<sup>3</sup> per day. Average daily flow from April to August was 9.37m<sup>3</sup>.
- The report confirms that the current wastewater treatment plant and its components are operational and fit for purpose with recent upgrades in 2022 addressing any operational issues.

#### 6.1.5. Reason for Refusal 4

- Having regard to a full GPS survey and the existing road/boundaries, and with regular maintenance/trimming of vegetation on either side of the entrance, 90m sight lines can be achieved at a 3m setback.

#### 6.1.6. Other Matters

##### Traffic Barrier

- The previous location of the traffic barrier was to facilitate access to a proposed public car park. The Commission Order stated that it would be contrary to the proper planning and development of the area to require a public car park by condition of the permission and omitted the condition to provide the car park. In order to implement the Commission's decision, a gate and barrier was installed at the main entrance in 1994 in order to prevent trespass. It is therefore submitted that retention permission is not required for the gate and barrier.

##### Rights of Way

- Rights of Way are a civil matter.
- Access to the shoreline is not intrinsic or fundamental to the status of the Coastguard Cottages and the original function/use ceased over 100 years ago.
- The patrol path linking the Coastguard Cottages and the Boat House has been severed and the Boat House has been in private residential use for over 100 years.

- The claim made by the owners of the Coastguard Cottage has no legal basis.
- In 1981, a Deed of Grant and Release Agreement (from the right of way) was reached between the former owners of the coastguard buildings and Jack's Hole Resort. The route of the path within the report was diverted to the north-east and this supersedes any or all alleged rights of way held by the Coastguard Cottages.

### SuDS

- A Storm Water Management Report has been submitted. In terms of stormwater, SuDS principles have been adopted as widely as possible.
- Works will improve how storm water infiltrates to ground and will reduce surface water run-off/unmanaged ponding.

## 6.2. Planning Authority Response

6.2.1. No response on file.

## 6.3. Observations

6.3.1. Four Third Party observations have been received as follows:

### 6.3.2. Celine Merah

- Concerns regarding increased water demand on existing residential wells and the water table.
- Existing development is not in compliance with the planning permission, with 15 more mobile homes on the site than permitted.
- Development would not be in keeping with the rural area, it would lead to light and noise pollution and would be visible from neighbouring houses and the R750
- Views of the sea from the R750 and the Coastguard Cottages will be severely impacted.
- Heritage and Biodiversity should be considered.
- The location of the site outside of the settlement boundary and within the Area of Outstanding Natural Beauty is a material consideration.

### 6.3.3. Christine Carey and Michael Keatings

- There is a right of way to the beach that has been recorded for over 80 years but unrecognised by the Applicant since January 2024.
- Several applications to increase the number of mobile homes has been refused by the Council and the Commission.
- The most recent refusal from the Commission related to wastewater treatment, visual impacts on an Area of Outstanding Natural Beauty and Prospect 30, and that the development would injure views of the sea, the rural, scenic and recreational value of the area, and that it would conflict with Council policy to maintain the carrying capacity of the environment. These issues remain relevant.
- The development is contrary to CPO 11.6.
- There would be an impact on visual amenity, views of the sea, character, and the development would be intrusive.
- The gradient at the junction is 10% which is excessive. The development would endanger public safety due to a traffic hazard.
- Sight lines are insufficient for a regional road, compliant sight lines cannot be achieved, and the use of the access would be intensified.
- The speed limit on this section of road should be reduced.
- No details of the Wastewater Treatment Plant upgrades have been provided. No evidence has been submitted that it operates efficiently to a satisfactory standard during peak times.
- The mobile units at Jack's Hole have a population equivalent of 450PE, the development would bring this to 498 PE and the existing Wastewater Treatment Plant capacity is 320 PE.
- Plans do not indicate the property boundary correctly, a significant portion of the beach is indicated as the Applicant's property, which it is not.
- Oly 57 mobile homes are permitted. In addition to the 15 unauthorised mobile homes, there are additional elements of the development that are not in accordance with any of the previous permissions.
- The boat parking area is unauthorised, with no bunding system to retail fuel or oil spills.

- The LVA does not consider the impact to local properties. In order for the mobile homes to be screened the proposed berm would need to be 7m high as opposed to 3m high.
- There will be noise impacts from the additional sports courts and pitches. Noise from the existing tennis court is already very loud and unwelcome.
- A five-a-side pitch is not welcome, is not required, and would be excessively noisy.
- Lighting will be visible and intrusive.
- Impacts from increased water demand on the existing well and other properties.
- Inaccuracies on drawings.
- No detail provided on how the proposed ponds will be protected for child safety or how they will be filled/discharged.
- Flora and fauna data should have been collected over 12 months, not a seven week period. Stoats have been frequently seen on the property.
- No measures specified to prevent construction run-off from reaching the sea.

#### 6.3.4. Emma Lamb and Peter Lynch

- A right of way access to the beach via the Jack's Hole Beach Resort has been enjoyed since the early 1960's.
- Lack of detail regarding construction period, volume/materials, and construction methodology. The conclusions of the AA Screening are likely compromised and considering potential run-off of hazardous materials and pollutants, it cannot be established that no significant effects are likely. Full Appropriate Assessment should be considered.
- LVA is insufficient and incomplete. It misrepresents the effects from view 4 and the area experiencing the greatest visual impact has not been assessed. There has been no consideration of visual impact to properties to the west of the R750.
- Character and visual potential of the area will be compromised.
- Insufficient information has been provided on lighting.
- If lighting is proposed, then details should be provided and it should be considered in the Ecological Impact Assessment. If no lighting is proposed, then it should be formally confirmed/conditioned.
- The Council should consider light mitigation measures (sensors, shielding).

- Noise Assessment is insufficient and does not consider all relevant noise sensitive locations.
- It should be confirmed that the noise from renovation works to the Coastguard Cottages has been excluded from the baseline noise assessment.
- Hours of use restrictions should be considered for the sports facilities.
- Potential impact from increased water demand from the development. A monitoring regime should be considered.
- If boundary treatment trimming is required at the site entrance, then it is requested that sympathetic screening be installed in front of the palisade fencing which is not in keeping with local character and is at odds with the setting.

6.3.5. Seamus Doherty and Tom O'Connor, accompanied by a response from Heritage Consultant Dr. Jason Bolton).

- The proposal seeks to develop an exclusive private resort.
- The development would require significant topographical changes, planting and boundary intensification. It would block views towards the sea from the R750 and from the Coastguard Cottages.
- The development and the proposed screening measures would interfere with the listed prospect and would be visually intrusive.
- Situational characteristics of Coastguard Cottages are similar to lighthouses. The essence of a Coastguard Cottage is to see and allow passive surveillance of the sea and shoreline. The proposal undermines the protected status of the Coastguard Cottages.
- The development would harm the setting of the Protected Structure and its curtilage.
- The site is outside of the settlement boundary of Ballynacarrig-Brittas Bay.
- The development is on an eroding coastline and within 100m of the coastline proper and would not be permitted under CPO 19.11.
- The LVA is incorrect and misleading. Viewpoint 6 is the most important. The impact of the berm and tree planting is significant and not moderate/neutral. The magnitude of change is very high.

- Planting on top of the berm would continue to grow and together with other planting and tree species/numbers, would block rather than mitigate views to the sea.
- The Slattery Conservation Report is incorrect and inaccurate. The Appellant's Heritage Consultant Dr Jason Bolton does not accept the findings of the report on the following basis:
  - Insufficient research and inspection of the Protected Structures has taken place.
  - There is a misunderstanding of what a 'Patrol Path' is.
  - Misunderstanding regarding the design of watch towers/houses and how Coastguard Stations of the Admiralty era differed in design and function from earlier stations.
  - Conclusions are flawed as the significance and understanding of the Coastguard Station was misconstrued/misinterpreted.
- The scale of development and the level of modification required is excessive. The development would be destructive to the site and the AONB and would be contrary to CPO 17.37-38 and 19.8-9.
- The proposed berm and landscaping would block views and should not be permitted in an AONB. It would be contrary to the essence of the Protected Structures which is to allow passive surveillance of the sea and shoreline.
- The berm and landscaping would cause shadowing to the Coastguard Cottages and garden.
- The proposal would effectively privatise a public beach and restrict legitimate Rights of Way.
- Proposed sports facilities would cause light and noise pollution.
- Several applications have been refused by the Commission and Wicklow County Council over the years on the basis that development on the seaward side of the road would be contrary to policy and injurious to amenity (views, rural/scenic/recreational value).
- There are various unauthorised developments on the site.
- The automated gate does not have permission, the previous permission/Commission Order referred only to the traffic barrier. The Applicant needs to seek retention permission.

- The scale and automation of these gates are out of character with this Area of Outstanding Natural Beauty, and they do not comply with Wicklow planning policy.
- The gates block the entry of neighbours who have legitimate rights of way and to the public who have a right to access the public beach.
- Removal of roadside vegetation is required in order to achieve sightlines. Vegetation has been removed from the Coastguard Cottage boundary wall without permission and will be replaced.
- The existing mobile homes do not comply with site safety policies of the Department of Housing, Heritage, and Local Government in terms of separation distance, car parking in proximity to mobile homes and limitation of fire spread.
- The development would restrict the Appellant's prescriptive Right of Way which is protected their benefit and for the benefit of their successors in title, as confirmed by two leading experts on the matter.
- The 1981 Deed of Grant of Release referred to by the Applicant is irrelevant and misleading. The development would illegally cut across the Appellant's Right of Way and deny usage of an inalienable right of passage to and from the sea shore from the Coastguard Cottages.

#### 6.4. Further Responses

6.4.1. None.

### 7.0 Assessment

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

- Principle of Development
- Procedural Matters
- Unauthorised Development
- Design, Heritage, and Visual Amenity

- Amenity
- Rights of Way
- Transport
- Biodiversity
- Wastewater Treatment

## 7.2. Principle of Development

- 7.2.1. It is indicated in the observations that the principle of development is unacceptable, noting that the site is located outwith the settlement boundary of Ballynacarrig-Brittias Bay, within an Area of Outstanding Natural Beauty, and that it is on an eroding coastline (within 100m of the coastline proper). It is therefore considered that the development would not comply with CPO 11.6 and 19.11.
- 7.2.2. The Applicant argues that the site location outside of the settlement boundary of Ballynacarrig-Brittias Bay and within an Area of Outstanding Natural Beauty is not a material consideration for refusing planning permission. The Applicant further argues that CPO 11.6 and 19.24 allow for the expansion of existing facilities, subject to various considerations such as scale, design and site suitability.
- 7.2.3. Although CPO 11.6 prohibits caravan/mobile home developments in an AONB, the objective does provide a dispensation for existing development, stating in the footnote that expansion of existing facilities will be considered subject to the suitability of the site, a modest scale and high quality design. This is also reflected in CPO 19.24, Section 8(c) where a similar allowance is provided for existing facilities.
- 7.2.4. CPO 19.11 seeks to prohibit new development within 100m of soft shorelines. Soft shorelines are identified in the individual coastal cells within Section 19.3 of the CDP. The site is located within Cell 9 Brittias Bay where a soft shoreline is not identified as a defining feature. Whilst some areas within the cell do have a soft shoreline, I do not agree that this would characterise the specific subject site, noting that it is raised well above the shore and as such the likelihood of erosion as a result of the development itself would be minimal.
- 7.2.5. Having regard to the site location within an existing and well-established holiday/caravan park, I am satisfied that the development is acceptable in principle

subject to compliance with the various criteria outlined in the relevant objectives, including acceptability of the site, design, scale, access, visual and residential amenity.

### **7.3. Procedural Matters**

- 7.3.1. It is submitted in the observations that the property boundary on the plans is incorrect as it includes a significant portion of the beach as being within the Applicant's ownership. I acknowledge the concern raised, which relates to the blue line plan rather than the red line plan, which I have no reason to question the accuracy of. The issue regarding the blue line plan could be rectified by way of Further Information in the event that the Commission decide to grant permission.
- 7.3.2. The observations also state that the existing mobile homes do not comply with site safety policies of the Department of Housing, Heritage, and Local Government in terms of separation distance, car parking in proximity to mobile homes and limitation of fire spread. The existing mobile home park is established (enforcement matters notwithstanding) and the matters raised with regard to compliance of the existing mobile homes with the Department's safety standards is a matter for the Planning Authority in terms of enforcement or alternatively compliance with the Building Regulations.

### **7.4. Unauthorised Development**

- 7.4.1. The Planning Authority's second reason for refusal relates to unauthorised development and the conclusion that the proposal would represent the consolidation of unauthorised development on the site, having regard to non-compliance with the terms and conditions of PRR 89/4826 in relation to the traffic barrier and due to there being 9 no. units on site for which no permission exists. These concerns were echoed in the observations which state that there are 15 mobile homes that do not have permission, that the current boat parking area does not have permission, and that the automated gates do not have permission either. The Planning Authority note that retention permission has not been sought for the gates.
- 7.4.2. The Applicant contends that all 72 mobile homes have the benefit of planning permission, with 61 being permitted in April 1991 under ABP-81179 and a further 11 permitted in August 1993 under ABP-091078. On the matter of the traffic barrier, the Applicant argues that the previous location of the traffic barrier was to facilitate access to a proposed public car park, which the Commission omitted by condition. The

Applicant states that in order to implement the Commission's decision, a gate and barrier was installed at the main entrance in 1994 in order to prevent trespass and it is therefore submitted that retention permission is not required.

- 7.4.3. The Commission do not have an enforcement function and enforcement is therefore a matter that is reserved to the Planning Authority. A determination on enforcement matters is therefore not within the scope of the appeal. However, based on my site inspection and the information available to be on the appeal file and history files, I am generally satisfied for the purposes of the current appeal, that the number of units on site is in alignment with the various permissions albeit that there does appear to be variance in the specific siting of some units. It was certainly not evident to me on my site inspection that there were nine units without permission, or indeed 15 no. units as referred to in the observations.
- 7.4.4. In regard to the gated access, it would again appear that this does not benefit from permission, and I do not accept the Applicant's argument that it was installed in this location in order to comply with the previous Commission decision. However, as stated previously, enforcement is a matter for the Planning Authority, and I note that the barrier has been in place for a significant period of time.
- 7.4.5. The Commission could seek further information from the Planning Authority on the enforcement matters in the event that the Commission is minded to grant permission, including details of the specific units that the Planning Authority believe to be in breach of planning control, however based on the information available to me, I am of the opinion that reason for refusal number two should be set aside.

## **7.5. Design, Heritage, and Visual Amenity**

- 7.5.1. The core issue raised across all observations is that the proposed development, including the landscaping and earthworks, would unduly impact on the Area of Outstanding Natural Beauty and Prospect 31, that it would have a significant impact on the visual amenity of the area and that it would block views to the sea, including from the observers' properties and particularly from the Coastguard Cottages, and that it would be an incongruous and intrusive feature that would be out of character with the area.
- 7.5.2. It is submitted that the development would harm the setting of the Coastguard Cottage, which is a Protected Structure, and that it would undermine its status, arguing that the

essence of a Coastguard Cottage is to see and allow passive surveillance of the sea and shoreline. It is further stated that the Landscape and Visual Appraisal is incorrect and misleading, that the level of land modification required is excessive, and that it would be destructive to the Area of Outstanding Natural Beauty.

- 7.5.3. The Applicant considers that the LVA demonstrates that there would be no adverse impacts on prospects or views and that the development would only be visible from the road to a minor extent, having regard to the change in levels, intervening buildings and landscaping, localised land regrading and berms, and the height of the proposed units.
- 7.5.4. The Applicant argues that the Coastguard Cottages were not designed to address the sea, having been designed as naval accommodation to a standard design and that views to the sea cannot be considered to contribute to their function or design. It is submitted that the setting of the Coastguard Cottages has been altered by their recent extension, that the rear setting cannot be considered original or that the views of the sea can be deemed significant in the historical context. Expanding on views, the Applicant argues that views will not be blocked as the site slopes away from the road, that planting is appropriate and that it will frame views rather than block them, and that caravans would not be visible having regard to level changes, distance and planting.
- 7.5.5. The subject site is located within a coastal rural area designated as an Area of Outstanding natural Beauty. In terms of Coastal Zone management, it is within Cell 9 Brittas Bay which consists of the coastal area between the R750 and the coast and generally comprises an agricultural area, with notable pockets of more intense development around Ballynacarrig (Brittas Bay), Brittas Bridge, and Cornagower, and a significant number of single rural houses and caravan parks/holiday homes. The CDP notes that development pressure resulting from the popularity of the area as a tourist and day-tripper destination during the summer months has resulted in the development of a number of caravan parks/holiday home developments and has created problems relating to traffic and parking.
- 7.5.6. Policy objectives for the area, recognising its importance and the development pressure it is under, seek to protect the character and visual potential of the coast and conserve the character and quality of seascapes. Whilst I note that the CDP provides for the consideration of expansion of existing facilities, this has to have consideration

of wider objectives. In this regard I note that it is the objective to strictly control the nature and pattern of development within coastal areas and ensure that it is designed and landscaped to the highest standards and sited appropriately so as not to detract from the visual amenity of the area.

- 7.5.7. Key to this is the ability of the land to absorb further caravan development. As noted earlier in the report and within the CDP, there are a number of holiday parks in the area. Jack's Hole appears, at last on the information available to me, to be the most intensive of these facilities, with caravans site in a dense pattern along the narrow stretch of coastline to the headland. One benefit of the location of the existing caravans is that they are on the low land adjacent to the shoreline and not in any way visible from the road. Development on this land is maximised, noting that the land to the rear of the caravans is not suitable for development due to its gradient, which also rules out any beneficial use as an amenity area.
- 7.5.8. The subject site therefore plays an important role as it provides the only open land within the resort that is suitable for use as an amenity open space area. It also provides a much-needed buffer from the intensive shoreline development. To permit development of this land would, in my opinion, equate to overdevelopment of the overall lands.
- 7.5.9. On the matter of visual amenity, I share the concerns of the Planning Authority and the observers. Whilst I agree that the development would not be visible in many of the views, views from the road are such that visual amenity would be compromised. In View 5 the extent and excessive nature of the proposed landscaped berm is clearly evident, and it is an obtrusive and incongruous feature. In view 6 and view 7 I consider that the caravans are in fact visible in addition to the proposed planting and berm. Furthermore, I consider that the development and earthworks would be entirely visible had a view been taken looking towards the site from the junction of the R750 and Rockfield Park, noting that the view provided by the Applicant is further back along the road which diminishes its visibility. Had the view been taken closer to the junction, I consider that the visual impact of the development would have been clear, including the berm proposed to screen the proposed parking area.
- 7.5.10. In terms of the impacts on the Protected Structure, I note that, despite my comments above regarding the visibility of the caravans and the proposed berm, views to the sea

would actually be retained. In that respect I do not consider that the development would block views to the sea or affect the historical connection between the cottages and the sea. I have noted the extension to the Protected Structure, which is very substantial and actually blocks views of the sea from the R750 itself and in many ways alters the setting of the Protected Structure. However, the extent of the landscaping and berm would, in my opinion, affect the overall wider setting of the Protected Structure. It is clear from View 5 that the berm would be substantial and located close to the boundary with the Protected Structure. In my opinion, the extent of the berm may be slightly underrepresented on View 6 and 7 by comparison, but this could be confirmed by Further Information in the event that permission is granted.

7.5.11. In any event, further planting would take place on top of the berm which in time would mature and further densify this screening. The extent of land modification taking place around the curtilage of the Protected Structure is such that I consider that its setting would be adversely altered. Overall, I consider that the level of planting and earthworks required to try and screen the development from view to be excessive and disproportionate in the context of the surrounding landscape and related sensitivities and it is my view that the development would negatively affect the visual amenity of the area, the AONB, Prospect 31 and the setting of the Protected Structure.

7.5.12. I note further concerns raised in relation to the gates, specifically that they are out of character with the area and not permitted by policy. I would agree entirely, however, the gates have been in position for a long period of time and enforcement, as previously discussed, is a matter for the Planning Authority.

## **7.6. Amenity**

7.6.1. Observations on the appeal raise a number of amenity issues, including that it would not be in keeping with the rural area, that there would be impacts in terms of noise and light pollution, particularly from the proposed sports facilities which the observers consider to be particularly unwelcome. It is stated that hours of use of the facilities should be conditioned.

7.6.2. I have considered the Noise Impact Assessment submitted with the application. I have also considered the proposed lighting scheme which comprises low level bollard lighting. In terms of noise from the sports pitches/courts I do not consider that noise from this source would be of such a sustained level and volume that it would impact

on the residential amenity of surrounding occupiers. In terms of the lighting proposal, low bollard lighting is proposed, the light spill from such installations is very limited and I do not consider that it would have any intrusive impact on nearby residents or the wider area, and I note that the sports facilities themselves would not be illuminated. I do not consider it necessary to condition the hours of use for the proposed sports facilities in the event that permission is granted, although this option is of course open to the Commission.

7.6.3. Further concerns are raised that the development would place additional demand on the water and that this could affect existing residential wells and the water table. The proposal is for an additional eight static mobile homes. I do not consider the development to be of such a size that it would detrimentally impact on domestic water wells or the water table in terms of capacity.

7.6.4. Observations on the appeal have raised the matter of the proposed ponds as an amenity issue on the basis that it is not clear how they would be protected for child safety or how they would be filled/discharged. The ponds are part of the Applicants SuDS proposal and seek to keep the storm water that falls within the confines of the upper field in that area to naturally drain through the ground. I agree with the Applicant that they will assist in ensuring storm water infiltrates to ground and that they will serve to reduce surface water run-off and unmanaged ponding. I do not consider it necessary that the ponds be fenced in, as well as being SuDS features, they are part of the proposed landscaping. The matter raised by the observers with regards to child safety in this respect is a matter for the operators of the site.

7.6.5. The observations also raised the issue of construction related impacts, including how construction run-off would be prevented from reaching the sea. I am satisfied that these are matters that could suitably be addressed by way of a Construction Management Plan in the event that permission is granted.

## **7.7. Rights of Way**

7.7.1. Three of the four observations raise the issue of rights of way across the site. It is submitted that there is a right of way to the beach over the land which has been recorded for over 80 years. In terms of the Coastguard Cottages, it is stated that the development would restrict the Observer's prescriptive Right of Way, which is protected for their benefit and for the benefit of their successors in title. It is further

stated that the 1981 Deed of Grant of Release referred to by the Applicant is irrelevant and misleading and that the development would illegally cut across the Appellant's Right of Way and deny usage of an inalienable right of passage to and from the seashore from the Coastguard Cottages.

- 7.7.2. The Applicant argues that rights of way are a civil matter and that in 1981, a Deed of Grant and Release Agreement (from the right of way) was reached between the former owners of the coastguard buildings and Jack's Hole Resort. It is also submitted that access to the shoreline is not intrinsic or fundamental to the status of the Coastguard Cottages and the original function/use ceased over 100 years ago.
- 7.7.3. Although I acknowledge the Applicant's argument regarding the Deed of Release Agreement, no details of same have been submitted. I also note that none of the observers have substantiated their claim to a right of way. The relevant folio entries on Tailte Éireann do appear to show two rights of way crossing the site, one of which does connect to the shoreline. In any event, insufficient information has been submitted by all parties, and I am unable to come to a determination on the matter.
- 7.7.4. As set out in the Development Management Guidelines, the planning system is not designed as a mechanism for resolving disputes about title to land/premises, or rights over land. These are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not to be entitled solely by reason of a permission to carry out any development. With that in mind, all parties to the appeal should be reminded that the existence, validity, or obstruction of a private right of way is ultimately a legal matter for the courts rather than a planning matter.

## **7.8. Transport**

- 7.8.1. The Planning Authority's fourth reason for refusal considers that insufficient information has been submitted to show that the required sightlines can be achieved at the entrance to the site and that to permit the development in the absence of such information would be contrary to proper planning and sustainable development. This is echoed in the observations on the appeal which also raise concerns regarding the gradient at the junction as well as a view that the speed limit on the main road should be reduced.

7.8.2. This is an existing access to long established holiday park, the principle of the access cannot be revisited as part of the current application. In my mind the question is, would the proposal result in a significant intensification of the access such that safety would be compromised? The proposal is for an additional eight static mobile homes, and I do not consider this to be such a significant intensification of the access such that it would warrant refusal on transport grounds. The Applicant has submitted information to demonstrate that the appropriate sightlines can be achieved. From my site inspection, I am satisfied that appropriate visibility is provided onto the regional road. I have no concerns regarding the gradient of the junction, noting that it is the access road itself that slopes steeply down to the coast and that the junction and the interface with the R750 is not of a gradient that would interfere with traffic safety. In terms of visibility at the junction into the specific site from the existing access road, there would be no impediment to providing appropriate visibility, and whilst I note the gradient of the road, I do not consider that this would result in a traffic hazard, particularly given the low speed nature of the internal road network.

7.8.3. In order to achieve the sightlines at the main road junction, the Applicant has trimmed back vegetation within their ownership which is acceptable. Concerns raised in the observations that this trimming back of vegetation exposes the metal palisade fencing are reasonable and I agree that a boundary treatment condition should be imposed requiring a more sympathetic fence/enclosure to be provided having regard to the AONB, in the event that the Commission grant permission.

## 7.9. **Biodiversity**

7.9.1. It is raised in the observations that the development would have an adverse impact on biodiversity. The point is not expanded on in terms of what specific impacts are anticipated. It is also stated that flora and fauna data should have been collected over 12 months, not a seven week period with the observation noting that stoats have been frequently seen on the property.

7.9.2. An Ecological Impact Assessment (EclA) was submitted with the application. I am satisfied that the survey periods contained therein are appropriate, with flora and fauna surveys being undertaken in March – May and the bat assessments being carried out in May.

- 7.9.3. I note from the EclA that a protected rare plant species (Moore's Horsetail) was found 20m off site and that the Applicant has agreed to protect this area. An invasive species (three cornered leek) was discovered throughout the site in multiple locations and will require treatment to eradicate. Six badger setts were surveyed c. 130m south of the site, they are not proximate to the proposed development area. No bat roosts were noted on site, nor were any trees of roosting potential identified. Minor foraging was noted on-site.
- 7.9.4. The EclA proposes mitigation in terms of noise and vibration, lighting, dust and air quality, waste management, and construction phase mitigation, including a Construction Management Plan. The mitigation measures are generally standard and I am satisfied that they would be appropriate and sufficient to mitigate potential adverse impacts on ecology and biodiversity, noting that no significant residual adverse impacts are anticipated. I have no objections to the proposal on the grounds of biodiversity/ecology.
- 7.9.5. In the event that the Commission grant permission, I would recommend that a condition is imposed requiring a pre-commencement bat survey to ensure that there has been no significant change in baseline conditions on the site in terms of bat roosts.

#### 7.10. **Wastewater Treatment**

- 7.10.1. The Planning Authority's third reason for refusal relates to the wastewater treatment system and the view that insufficient information has been submitted to show that there is sufficient capacity available to service the proposed development and if it is treating water to the required standard, and if it is fit for purpose. This was reiterated in the observations where concerns were raised regarding the population equivalent of the system and the calculated population equivalent which is considered to be incorrect. Concerns were also raised that no evidence has been submitted to demonstrate that the system operates efficiently and to a satisfactory standard during peak times.
- 7.10.2. The Applicant points to the Wastewater Treatment Plant Capacity Assessment which sets out that the system has a PE capacity of 300 which would be sufficient to cater to the existing and proposed PE of 232.5, indicating spare capacity. Furthermore, peak flow rates are stated to be within the specification. It is argued that the wastewater treatment plant and its components are operational and fit for purpose with recent upgrades in 2022 addressing any operational issues.

- 7.10.3. In my opinion, the concerns raised by the Planning Authority and in the observations are reasonable. I have considered the Applicant's Wastewater Treatment Capacity Assessment submitted as part of the application in addition to the updated version submitted with the appeal. I have also considered the EPA Code of Practice for Domestic Wastewater Treatment Systems in addition to the EPA Wastewater Treatment Manuals Treatment Systems for Small Communities, Business, Leisure Centres and Hotels. My first concern relates to the capacity of the system and the PE adopted.
- 7.10.4. It is proposed that the additional eight units be serviced by the existing wastewater treatment system that serves the current 75 units. I note that both the existing and the proposed static mobile homes are three bedroom/two bathroom and fully serviced. The Applicant states that the existing 75 units represent a PE of 210 which is based on an assumption of a typical household occupancy of 2.8 people although no rationale is given for adopting this occupancy or how it would translate to the proposed development. The Applicant's report states that the current wastewater treatment system has capacity to accept 48 cubic metres of raw effluent per day which equates to a maximum design capacity of 320 PE. It is argued that this is more than sufficient to accommodate both the existing units at 210 PE and the proposed units at 22.4 PE, giving a total PE of 232.5.
- 7.10.5. I would note that there is a discrepancy in the Applicants documentation. The updated Wastewater Capacity Assessment submitted with the appeal states that the current wastewater treatment system has capacity to accept 48 cubic metres of raw effluent per day equating to a maximum design capacity of 320 PE. However, Appendix A states that the tank capacity is 60 cubic metres per day and designed to serve a population of 300. No explanation is offered for this discrepancy, and no as built certification has been provided that offers clarity on the tank size.
- 7.10.6. EPA guidance states that the design population equivalent for three bedrooms is 5, which is significantly higher than the Applicant's 2.8. Table 3 of the EPA Wastewater Treatment Manuals Treatment Systems for Small Communities, Business, Leisure Centres and Hotels, gives recommended wastewater loading rates for commercial premises. Fully serviced static caravans have a stated flow/litres per day of 150 per person and a BOD of 55 per person/day.

- 7.10.7. Based on the EPA's own design standards, the 75 existing units on site would have a PE of 375 indicating that capacity would be exceeded in a peak scenario. Even applying a more conservative 4 person PE per unit, equating to a total existing PE of 300, spare capacity of the current wastewater treatment plant would be exhausted. When including the additional eight units and applying the EPA advice, the total proposed PE would be 415, or 332 when applying a more conservative PE per unit of 4. In both cases the maximum design capacity of the system would be exceeded.
- 7.10.8. I note the additional information in the Wastewater Capacity Assessment submitted with the appeal regarding flow monitoring for July and August, showing an average daily flow of 13 cubic metres per day and a maximum of 24. The Applicant uses this data to argue that the plant is operating well within its capacity. Whilst this addresses what flow the site generates under current patterns, it does not address what flow the site is capable of generating at maximum occupancy. Having regard to the matter of the maximum plant capacity and the maximum PE outlined previously, the WWTP must be capable of treating the maximum design PE on that day. Historical flow data cannot compensate for maximum design capacity. A wastewater treatment plant doesn't accumulate capacity during quiet periods, it must treat the wastewater presented to it on each individual day to the standard required by its discharge licence and in this respect, it must be able to handle peak capacity.
- 7.10.9. Finally, I would draw the Commission's attention again to the average annual data provided in both Wastewater capacity assessments. I note that the system breached its licence remit in terms of BOD (66Mg/l against a licence remit of 25Mg/l) and Suspended Solids (104Mg/l against a licence remit of 60Mg/l). This occurred in 2023, despite the system being upgraded in 2022. The Applicant states that this was due to excessive freshwater ingress that diluted the effluent and destabilised the bacterial population. In my mind this appears contradictory as dilution with fresh water would reduce measured concentrations rather than increase them and for that reason, I am not entirely satisfied with the explanation on this matter, which should be clarified by Further Information in the event that the Commission opt to grant permission.
- 7.10.10. Furthermore, part of the Planning Authority's reason for refusal related to the lack of evidence from a competent person/contractor with experience in the installation of wastewater treatment systems to certify that the WWTP and all components are fit for purpose and fully operational. Compliance with this matter is important given the

previous licence breaches and I do not consider that this has been suitably addressed as part of the appeal. I therefore agree with the Planning Authority that the development should be refused permission.

## 8.0 AA Screening

8.1. I have considered the proposal in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located in the open countryside, and the closest European Sites are the Magherabeg Dunes SAC (Site Code 001766) c. 535m to the north, and the Buckronev Brittas Dunes and Fen SAC (Site Code 000729) c.850m to the south. The development comprises eight new mobile home pitches/mobile homes and new sports facilities. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European site. The reason for this conclusion is as follows:

- The nature and scale of the work.
- The separation distance and lack of meaningful connections in addition to the very significant dilution effects of the Irish Sea and the significant dispersal effects from coastal process.
- The qualifying interests of the SACs, which relate to dune environments, and the conservation objectives pertaining to these sites.
- The screening determination of the Planning Authority.

8.2. I conclude, on the basis of objective information, that the development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and development Act 2000) is not required.

## 9.0 Water Framework Directive

9.1. Refer to Appendix 4. On the basis of information provided with the application in terms of wastewater treatment, I am not satisfied that it can be concluded that 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 in reaching its WFD objectives. The Commission may consider requesting the views of interested parties on the issue of the WFD however this issue is directly associated with the substantive issue of wastewater treatment on the site for which the recommended reasons of refusal relate.

## 10.0 Recommendation

10.1. I recommend that the Commission refuse planning permission.

## 11.0 Reasons and Considerations

1. Having regard to:

- a) The location of the development within an Area of Outstanding Natural Beauty and removed from the existing main resort area;
- b) Prospect 31 along the R750 Wicklow to Arklow i.e. Views towards sea from Coast Road;
- c) The nature, extent and appearance of the proposed development, including the extent of land modification, including the excavation and formation of substantial earthwork berms;
- d) The impact of the proposed development on the setting of the Protected Structure (Coastguard Cottage Ref 31-05);

It is considered the proposal would result in overdevelopment of the site that would have a significant adverse impact on the visual amenities of this sensitive area that would seriously interfere with the protected Prospect 31, the AONB, and the setting of the Protected Structure. The development would therefore be contrary to proper planning and sustainable development.

2. CPO 13.1 and 13.2 of the Wicklow County Development Plan seek to support the implementation of the EU Water Framework Directive to ensure the protection, improvement and sustainable use of all waters in the County,

including rivers, lakes, ground water, coastal and estuarine waters, and to restrict development likely to lead to a deterioration in water quality. Having regard to the information on file, including submissions made in connection with the planning application and appeal, the commission is not satisfied that the Applicant has demonstrated that the arrangements provided for dealing with wastewater disposal from the development are adequate to cater satisfactorily for the development, that the development would not contribute to water quality deterioration of the coastal waterbody, or that it would not be prejudicial to public health and would not cause pollution that would hinder the achievement of, and are not contrary to, the objectives of the EU Water Framework Directive, contrary to CP0 13.1 and CPO 13.2 of the Wicklow County Development plan 2022-2028.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

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Terence McLellan  
Senior Planning Inspector

24<sup>th</sup> April 2026

## Appendix 1

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	ABP-3210824-24
<b>Proposed Development Summary</b>	Construction of 8 mobile homes, sporting facilities, hard standing area for vehicular storage and parking and all site works and landscaping features.
<b>Development Address</b>	Jack's Hole Beach Resort, Ballynacarrig-Bittas Bay.
<b>In all cases check box /or leave blank</b>	
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - 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)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, no further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>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?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2,	

<p>Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p><b>EIA is Mandatory. No Screening Required</b></p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	<p>Class 12 - Tourism and Leisure.</p> <p>12(c) - Holiday villages which would consist of more than 100 holiday homes outside of a built-up area.</p> <p>12(d) - Permanent camp sites and caravan sites where the number of pitches would be greater than 100.</p>

<b>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)?</b>	
<p>Yes <input type="checkbox"/></p>	<p><b>Screening Determination required (Complete Form 3)</b></p>
<p>No <input checked="" type="checkbox"/></p>	<p><b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b></p>

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

## Appendix 2

### Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	ABP-321082-24
<b>Proposed Development Summary</b>	Construction of 8 mobile homes, sporting facilities, hard standing area for vehicular storage and parking and all site works and landscaping features.
<b>Development Address</b>	Jack's Hole Beach Resort, Ballynacarrig-Bittas Bay.
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<p><b>Characteristics of proposed development</b></p> <p>(In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p><b>Briefly comment on the key characteristics of the development, having regard to the criteria listed.</b></p> <p>The proposed development is for static mobile home accommodation within an existing holiday park. No demolition works would be required. Use of natural resources would largely be limited to land take and generally consistent with other developments of this scale and nature.</p> <p>Construction materials and activities would be typical for a development of this nature and scale. The use of fuels and materials would be typical for construction sites. Construction impacts would be local and temporary in nature, could be suitably managed through a Construction Management Plan. In terms of accidents, no significant risk is anticipated having regard to the nature and scale of the development. Any risk arising from demolition and construction will be localised and temporary in nature.</p>
<p><b>Location of development</b></p> <p>(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,</p>	<p><b>Briefly comment on the location of the development, having regard to the criteria listed</b></p> <p>The development would be located in a rural area of Outstanding Natural Beauty (AONB). There are other holiday parks in the area, but the specific site is undeveloped. I have concerns that it would detrimentally impact on the visual amenities of the area. However, these would be localised to the immediate</p>

<p>nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>local environmental and would not warrant the submission of an EIAR.</p> <p>Wastewater treatment concerns have been set out in detail and I consider that the capacity issues are such that the development would impeded achievement of WFD targets.</p>
<p><b>Types and characteristics of potential impacts</b></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><b>Having regard to the characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects.</b></p> <p>All development has the potential for some impact/disturbance during the construction phase, such as noise, vibration, dust, air quality and traffic. However, these impacts would be short term and temporary and can be appropriately managed and mitigated by way of conditions and the implementation of a detailed Construction Management Plan.</p> <p>Given the nature of the development and the site/surroundings, it would have the potential to affect landscape sensitivities in the area, having regard to the location of the site within an Area of Outstanding Natural Beauty. However, this would be localised and not of such a scale to warrant and EIAR.</p> <p>No transboundary or cumulative issues arise and the development would not be particularly complex. Relevant conditions have been imposed to mitigate potential impacts.</p>
<b>Conclusion</b>	
<p><b>There is no real likelihood of significant effects on the environment.</b></p>	<p><b>EIA is not required.</b></p>

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

DP/ADP: \_\_\_\_\_ Date: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)

## Appendix 3

### Appropriate Assessment Screening

Screening for Appropriate Assessment Test for likely significant effects	
<b>Step 1: Description of the project and local site characteristics</b>	
<b>Brief description of project</b>	Provision of an additional eight mobile home plots within an existing caravan/holiday park.
<b>Brief description of development site characteristics and potential impact mechanisms</b>	<p>The site forms part of Jack’s Hole Beach Resort, located on the coast in the townland of Ballynacarrig, close to the settlement of Ballynacarrig-Brittias Bay. The site is accessed via electric gates from the seaward side of the R750. The subject site itself measures approximately 3.55 hectares and the wider Jack’s Hole Resort measures c. 29.11 hectares.</p> <p>The land slopes downwards towards the coast from the R750 and the subject site therefore sits below the coastal road. The specific lands that are the subject of this application are located to the south of the existing access road. The land is currently an open field, with some vehicle parking and boat storage in addition to fence enclosed tennis courts. Beyond the specific development site, the access road turns sharply to the south and descends steeply to the shore where the existing main holiday park accommodation and facilities are located.</p> <p>The proposed development would be served by a wastewater treatment plant which discharges to the sea (based on the planning history).</p>

<b>Screening report</b>	Appropriate Assessment Screening Report prepared by Altemar (May 2024).
<b>Natura Impact Statement</b>	None.
<b>Relevant submissions</b>	Observations on the appeal state that there is a lack of detail regarding the construction period, materials, and methodology. It is further stated that the conclusions of the AA Screening are therefore likely compromised and that considering potential run-off of hazardous materials and pollutants, it cannot be established that no significant effects are likely and that full Appropriate Assessment should be considered.

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

Eight European sites were identified as being located within a potential zone of influence as follows:

- Buckroney-Brittis Dunes and Fen SAC (IE000729), 0.5km.
- Magherabeg Dunes SAC (IE001766), 0.5km.
- Wicklow Head SPA (004127), 5.8km.
- Wicklow Reef SAC (002274), 6.6km.
- The Murrough SPA (004186), 8.1km.
- The Murrough Wetlands SAC (002249), 8.9km.
- Deputy's Pass Nature Reserve SAC (000717), 9km.
- Vale of Clara SAC (000733), 12.9km.

I note that the Applicant has included all of the above sites out of an abundance of caution. In my opinion there is no reasonable prospect of impacts on the majority of these European Sites having regard to meaningful impact pathways and connections. For that reason, I have limited my screening to the most proximate European Sites:

- Buckroney-Brittis Dunes and Fen SAC (IE000729), 0.5km.
- Magherabeg Dunes SAC (IE001766), 0.5km.

European Site (code)	Qualifying interests <sup>1</sup> Link to conservation objectives (NPWS, date)	Distance from proposed	Ecological connections <sup>2</sup>	Consider further in screening <sup>3</sup> Y/N
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		development (km)		
<p><u>Site 1</u> Buckroney-Brittis Dunes and Fen SAC (IE000729)</p>	<p>Annual vegetation of drift lines [1210]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Atlantic decalcified fixed dunes (<i>Calluno-Ulicetea</i>) [2150]</p> <p>Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) [2170]</p> <p>Humid dune slacks [2190] Alkaline fens [7230]</p>	0.5km	Weak indirect hydrological pathway to this SAC via dust & surface water drainage during construction, and foul water drainage during operation.	Yes.
<p><u>Site 2</u> Magherabeg Dunes SAC (IE001766)</p>	<p>Annual vegetation of drift lines [1210]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>	0.5km	Weak indirect hydrological pathway to this SAC via dust & surface water drainage during construction, and foul water drainage during operation.	Yes

	Petrifying springs with tufa formation (Cratoneurion) [7220]			
	Conservation Objective			

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

The proposal would not result in any direct effects on any of the identified European sites, however there is a connection via the surface water network and wastewater which discharge to sea.

Whilst no details of standard measures such as bypass separators have been provided, in terms of addressing potential issues from vehicle parking areas, these could be conditioned and would not represent mitigation as they are industry standard interventions on most developments. I also note that a comprehensive SuDS scheme is proposed that would retain the vast majority of surface water on site. Overall, I do not consider that there would be any significant effects via surface water.

Foul water from the development would be treated by the existing on-site WWTP which has a marine outfall. My concerns regarding the capacity of the WWTP to cater to the proposed development are set out in detail in the report. There is a risk that untreated effluent could be discharged in the event that peak capacity is exceeded. However, the marine outfall would be subject to the very significant dilution and dispersal effects of the Irish Sea and having regard to the distance to the closest SACs, in addition to their qualifying interests, I consider it extremely unlikely that there would be effects beyond the immediate area of the subject site/outfall. I am therefore satisfied that there would be no significant effects on the qualifying interests of the SACs having regard to the nature of the development, the potential impact mechanisms and the relevant conservation objectives.

**AA Screening matrix**

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects

<p><b>Site 1:</b> Buckroney-Brittis Dunes and Fen SAC (IE000729)</p> <p>QI list as above.</p>	<p>No significant impacts identified.</p> <p>Potential impacts during construction would be minor, temporary, low magnitude and limited to the immediate site environs.</p> <p>Potential impacts during operation relate to effluent discharge to the sea in the event of WWTP capacity exceedance.</p>	<p>Significant effects can be ruled out having regard to the distance to the SAC, the nature of the qualifying interests and their conservation objectives, and the nature of the pathway along a coastal zone subject to the significant dilution and dispersal effects of the Irish Sea.</p>
	<p><b>Likelihood of significant effects from proposed development (alone):</b> No.</p>	
	<p><b>If No, is there likelihood of significant effects occurring in combination with other plans or projects?</b> No.</p>	
	<p><b>Impacts</b></p>	<p><b>Effects</b></p>
<p><b>Site 2:</b> North Dublin Bay SAC (Site Code 0000206).</p> <p>QI list as above.</p>	<p>As for Site 1.</p>	<p>As for Site 1.</p>
	<p><b>Likelihood of significant effects from proposed development (alone):</b> No.</p>	
	<p><b>If No, is there likelihood of significant effects occurring in combination with other plans or projects?</b> No.</p>	
<p><b>Step 4 Conclude if the proposed development could result in likely significant effects on a European site</b></p>		
<p>Having regard to the information contained within the Applicant's Screening Assessment, my site inspection, a review of the conservation objectives and supporting documents, and adopting a precautionary principle, I consider that the proposed development would not result in any significant effects on any of the identified European Sites. No mitigation measures have been relied on in coming to this conclusion.</p>		

## **Screening Determination**

### **Finding of no likely significant effects**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the European sites of Dublin Bay in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required. This determination is based on:

- The nature and scale of the work.
- The separation distance and lack of meaningful connections in addition to the very significant dilution effects of the Irish Sea and the significant dispersal effects from coastal process.
- The qualifying interests of the SACs, which relate to dune environments, and the conservation objectives pertaining to these sites.
- The screening determination of the Planning Authority.

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required

<b>Appendix 3 – WFD Stage 1: Screening</b>			
<b>Water Framework Directive IMPACT ASSESSMENT STAGE 1: SCREENING</b>			
<b>Step 1: Nature of the Project, the Site and Locality</b>			
<b>Case Ref.</b>	ABP-321082-24	<b>Townland, address</b>	Jack's Hole Beach Resort, Ballynacarrig, Brittas Bay, Co. Wicklow, A67 YC91
<b>Description of project</b>		Construction of 8 mobile homes, sporting facilities, hard standing area for vehicular storage and parking and all site works and landscaping features	
<b>Brief site description, relevant to WFD Screening,</b>		<ul style="list-style-type: none"> <li>• Existing holiday park with 75 units and an existing WWTP.</li> <li>• No watercourse within the boundary of the site.</li> <li>• The closest waterbody is the Southwestern Irish Sea – Killiney Bay (EPA Code IE_EA_100_0000)., immediately to the east.</li> <li>• The closest watercourse is the Potters River c. km to the southwest (EPA Name: POTTER'S_020, EPA Code: IE_EA_10P010500). There is no connection to this waterbody.</li> <li>• The proposed development site is located within the Ovoca-Vartry Catchment (ID. 10).</li> <li>• The site is located in the Wicklow ground waterbody with good overall status. Vulnerability is mostly Extreme above 200mOD. Below this the vulnerability is mainly High with some smaller areas of Moderate and Low in places along the coast and southeast.</li> </ul>	

<b>Proposed surface water details</b>	Stormwater from the site is discharged to SuDS ponds and attenuation with ground infiltration and excess discharge to the sea.
<b>Proposed water supply source &amp; available capacity</b>	The application states that well water will be used.
<b>Proposed wastewater treatment system &amp; available capacity, other issues</b>	The development would connect to the existing WWTP. No upgrades are proposed. I have raised concerns regarding capacity (see Inspector's Report). This appears to outfall to sea.
<b>Others?</b>	N/A

<b>Step 2: Identification of relevant water bodies and Step 3: S-P-R connection</b>						
<b>Identified water body</b>	<b>Distance to (m)</b>	<b>Water body name(s) (code)</b>	<b>WFD Status</b>	<b>Risk of not achieving WFD Objective</b>	<b>Identified pressures on that water body</b>	<b>Pathway linkage to water feature (e.g. surface run-off,</b>

				e.g.at risk, review, not at risk		drainage, groundwater)
<b>Potter's River</b>	c. 1km to the south.	POTTER'S_020 IE_EA_10P010500	Good.	Not at risk.	-	No connection.
<b>Southwestern Irish Sea – Killiney Bay</b>	Adjacent to the east.	IE_EA_100_0000	Good.	Not at risk.	-	WWTP outfall.
<b>Wicklow groundwater body.</b>	N/A	IE_EA_G_076	Good.	At risk.	-	Surface water groundwater.

**Step 3: 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	Water body 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.
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1.	Construction related contaminants entering groundwater and surface water drain.	Potter's River, Southwestern Irish Sea, Wicklow Groundwater body.	Existing	Water quality degradation.	Standard construction practices.	No	N/A
<b>OPERATIONAL PHASE</b>							
2.	Untreated surface water entering groundwater and surface water drain.  Untreated foul water entering coastal waters.	Potter's River, Southwestern Irish Sea, Wicklow Groundwater body.	Existing	Water quality degradation.	Surface water and groundwater impacts could be mitigated by industry standard measures and best practice.  There is no proposal to upgrade the WWTP. I have concerns it is inadequate in capacity to serve	Yes.	Yes.

					potential peak population.  There have been previous licence breaches.		
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