



An
Bord
Pleanála

Inspector's Report ABP-321847-25

Development	Retail food store with ancillary off-licence sales area and all associated site works. Natura Impact Statement included with this application.
Location	Site at Metges Road, Johnstown, Navan, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	2360440
Applicant(s)	Byrnell Developments Limited.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	First Party v condition
Appellant(s)	Byrnell Developments Limited.
Observer(s)	None.
Date of Site Inspection	8 th May 2025.
Inspector	Lucy Roche

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1.0 Site Location and Description

- 1.1. The subject site is located on the western side of the Metges Road, in an area known as Johnstown in Navan, Co. Meath, c3km southeast of Navan Town Centre.
- 1.2. The site has a stated area of 0.818ha and comprises an irregular shaped plot of undeveloped land that is currently overgrown with trees and shrubs, forming a woodland. The main body of the site benefits from approximately 160m of road frontage along the Metges Road and ranges in width from c65m at its northern end to 35m at its southern end. The topography of the site is relatively flat.
- 1.3. The site is bounded by undeveloped lands to the south, these lands are currently the subject of a separate application / appeal for an apartment scheme (ABP-321837-25). To the immediate north lies the 'Bailis Village', an apartment scheme ranging in height from three to six storeys and beyond that, at the junction of Metges Road and Bothar Sion, is the Johnstown Shopping Centre which contains a number of commercial units including a SuperValu supermarket, a pub, gym and HSE facility. Lands to the east, on the opposite side of the Metges Road are in residential use, comprising mainly two storey conventional houses laid out in a suburban pattern. The IDA Business Park is situated on lands to the west of the site. These lands are accessed from the Metges Road, c270m south of the proposed development site.
- 1.4. The Metges Road (L-5055-5) is the primary spine of the Johnstown neighbourhood. Its design includes a footpath and cycle path along both sides of the road. The site is within the 50km/h speed limits. There is a bus stop on both side of the Metges Road to the south of the site and to the north of the site at Johnstown Neighbourhood Centre.
- 1.5. There are no Protected Structures or Recorded Site/ National Monument on or adjoining the application site and the site is not located within a Zone of Archaeological Notification. A portion of the subject lands (lands adjacent to the Metges Road) are in the ownership of Meath County Council who have provided a Letter of Consent for the application.

2.0 Proposed Development

2.1. The proposal is for a single storey retail food store with ancillary off-licence sales area and incorporating:

- An external service area.
- Signage consisting of 2 no. illuminated fascia signs 2.07 x 2.47m and 1 no. double sided internally illuminated pole sign to include opening hours with a total area (front and back) of 13.56 sq.m.
- Car and bicycle Parking
- Landscaped road frontage and all associated site works.

2.2. The following details are noted:

Site Area	0.818ha
Floor Area	1,840 sq.m. (1315 sqm net retail)
Height	c6.267m above ground level
Access	Two vehicular access/egress from Metges Road, 1 serving a delivery /service area and 1no. serving the customer car park. Separate pedestrian access points.
Car Parking	89no. spaces
Cycle Parking	10no. storage space

2.3. Significant further information/revised plans were submitted on this application. The further information included: details of boundary treatment and site levels; revised surface water drainage design / report; revised site-specific flood risk assessment; details and design of public lighting; an energy statement, details of provision of recycling facility / bottle bank in car park.

2.4. The application is accompanied by (inter alia):

- Retail Impact Assessment
- Screening Report for Appropriate Assessment

- Natura Impact Statement
- Design Statement
- Engineering Planning Report
- Outline Construction Management Plan
- Outline Construction and Demolition Waste Management Plan
- Stage 1 Road Safety Audit
- Traffic and Transport Assessment
- Mobility Management Plan
- Outline Operational Waste Management Plan
- Ecological Impact Assessment Report
- Site Specific Flood Risk Assessment (updated at RFI stage)
- Bat survey
- Arboricultural Report
- Letter of consent from Meath County Council (as owner of lands within the development site)
- Energy statement (submitted at RFI stage)

3.0 Planning Authority Decision

3.1. Decision

Following an initial request for further information, Meath County Council decided on the 15th of January 2025, to grant permission for the proposed development subject to 23no. conditions. Condition 15 is relevant to this appeal.

Condition 15

(a) Prior to the commencement of the development onsite the applicant shall submit for the written agreement of the Planning Authority an agreement with the IDA that will enable the applicant to clear and regrade the Athlumney stream adjacent to the

subject site such that the watercourse can accommodate critical flood flows in the channel

(b) Prior to the commencement of the development onsite the applicant shall submit for the written agreement of the Planning Authority the full design and extent of the above works required.

(c) Prior to the commencement of any development on site, the applicant shall submit for the written agreement of the Planning Authority a Maintenance Plan for the maintenance of the Athlumney Stream adjacent to the subject site. The applicant shall include relevant consent letters from the 3rd party landowner.

(d) Prior to the commencement of any development onsite, the applicant shall submit for the written agreement of the Planning Authority a revised surface water system to be constructed as part of this development. This revised surface water system shall be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) Regional Drainage Policies Volume 2, for New Developments and the Greater Dublin Regional Code of Practice for Drainage Works Volume 6.

(e) Prior to the commencement of any development on site, the applicant shall submit for the written agreement of the Planning Authority a redesign of the Culvert at the IDA Entrance such that it can accommodate drainage from the subject site. This redesigned culvert shall be constructed by the applicant or owner of the land. The applicant shall submit a third-party agreement with the owners of the relevant lands to enable the applicant to carry out these works and carry out any drainage works including for the headwalls construction on the drain adjacent to the western boundary.

Reason: To ensure orderly disposal of surface water and in the interests of road safety and environmental protection.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

Initial Report – February 2024

- The initial report of the local authority Case Planner considers the locational context and planning history of the site, relevant planning policy and guidance, the third-party submissions and reports received.
- The assessment considers; - the principle of the development; retail assessment, siting, design and layout; landscaping and boundary treatment, access, traffic and parking; site services and flooding; archaeology and cultural heritage, tree removal and natural heritage and public and environmental health. Appropriate Assessment and EIA are also considered.
- On issues relating to flooding and surface water drainage, the Case Planner refers to the report of the Environmental Section (Water Drainage and Flooding) and notes that further information is required to address the issues raised.
- The report concludes with a request for further information on 11 items. Item 4 address surface water drainage and requests that the applicant to prepare a revised surface water drainage system in compliance with GDSDS. Item 5 addresses the issue of flood risk and identified deficiencies in the Site-Specific Flood Risk Assessment submitted with the application. The applicant is requested to use a minimum of three methods to calculate the flow rate for the existing water course; to submit a plan showing the location of the cross sections of the Athlumeny stream; to provide confirmation that there is no increased risk of flooding in the surrounding area and to submit details of a blockage analysis on the culvert at the entrance to the IDA Park.

Note: Following a request to do so, the planning authority agreed to extend the appropriate period for receipt of further information to 1st November 2024.

Further Information Report – January 2025

- The second report of the Local Authority Case Planner addresses the further information received with regard to the third-party submission and departmental reports received.

- The report concludes with a recommendation to refuse permission on two grounds relating to surface water drainage and flood risk.

Addendum Report of the A/Senior Planner, endorsed by the Director of Services (Jan. 2025).

- The addendum report notes the Case Planners recommendation to refuse planning permission but considers that the items raised can be addressed by way of condition, to be agreed with the Planning Authority prior to the commencement of any development onsite. The addendum report notes that grant of permission will be reliant on the applicant obtaining consent and carrying out of works to address the issues raised in the Environment Report in relation surface water management.
- The addendum report has regard to:
 - The planning history of the site, in particular the decision by An Bord Pleanála under ABP304840 to grant permission for 104 no. apartments etc on site and considers that the principle of residential and commercial development been accepted and permitted on this site.
 - The location of the development on fully serviced and highly accessible mixed use zoned lands immediately adjoining Johnstown Neighbourhood Centre.
 - The policies and objectives of the Meath County Development Plan 2021-2027 (as varied)
 - The Meath County Retail Strategy 2020-2026 and the Retail Impact Assessment which accompanies the planning application which identify the need for additional convenience floorspace in Navan.
 - The inclusion of the lands on the Residential Zoned Land Tax Map for Meath 2025.
- It considers that the proposed development is in accordance with the policies and objectives of the Retail Planning Guidelines (2012) and the Meath County Development Plan 2021-2027 (as varied) and the County Meath Retail

Strategy 2020- 2027 which is appended to same. That the subject development would complement Navan's position in the retail hierarchy for Co. Meath and would contribute to the growth of the existing neighbourhood centre in Johnstown.

- The addendum report concludes with a recommendation to grant permission subject to 23no. conditions, including Condition 15 the subject of this appeal.

3.2.2. Other Technical Reports

- ***Environment Flooding Surface Water Section*** – The Initial report of the Environment Flooding Surface Water Section was not included in the documentation submitted to the Board, a copy of the report has been requested from Meath County Council. However, I note that details of the report have been included in the report of the case planner (Feb. 2024) and in the follow up report from the Environment Flooding-Surface Water Section (Jan. 2025). The information available is sufficient for assessment purposes. The report received on 14th January 2025 recommends that planning permission be refused on issues relating to flooding and surface water drainage.
- ***Environment Section***: recommends a condition on the provision of recycling facilities to serve the area
- ***Environment Waste Section***: Reports cite no objection subject to condition
- ***Transportation Department***: Reports cite no objection subject to condition
- ***Public Lighting***: - initial report requests further information. The subsequent report notes that the lighting design for the road frontage is ok but that there is a requirement for a lighting design for the internal site, car park and loading areas.
- ***HSE – Environmental Health***: - Report of November 2024) comments on the further information received. The report notes that adequate waste storage facilities will be required and recommends that the applicant consult with the local EHO to discuss the layout and food hygiene requirements.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

The planning authority received submissions from two parties during the course of their assessment of the application. The main issues raised can be summarised as follows:

- *Environmental, Climate and Sustainability* concerns: - Impacts on biodiversity, loss of trees and habitats for birds, bats and mammals. The site would be better served as a nature reserve. Proximity to the stream raises concerns of pollution and flood risk. Lack of set back from important natural assets. Development may contravene MCC Climate Action Strategy; the proposal does not include an environmental assessment. The NIS is inadequate.
- *Inappropriate development*: - The site is not suitable for development. a retail unit on this site would lead to commercial sprawl. Development should be placed on brownfield site closer to Navan than rather than a green space.
- *Traffic*: - The proposal will lead to new access points and additional traffic (including construction traffic) on Metges Road which is already congested. Disagree with the findings of the traffic survey.
- Impacts during construction – Noise, traffic, damage to public road
- Impacts on the residential amenities of neighbouring properties to the north (Ballis Village complex) by way of noise and nuisance from trucks and plant and visual impact
- *Inadequacies in physical and social infrastructure* to cater for the development.
- *Legal and procedural and other matters*: Serial applications on site, lack of consistency in the in decision making process, risk of subsequent planning applications, lack of clarity in the documentation submitted. Developer has no local connection to the site/area.

4.0 Planning History

4.1. Appeal Site including adjoining lands to the south:

ABP-304840-19:

Strategic housing development GRANTED (October 2019) comprising the construction of 104 apartments, 1,536 sqm of commercial facilities to include crèche, sports club and offices. The following conditions are noted:

- c.10. (a) Water drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. The following specific requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development, unless otherwise stated: (b) Revised drawings shall show the inner ditch that lies alongside the Athlumney Stream to remain open and not be filled with a filter drain, unless otherwise agreed in writing with the planning authority prior to commencement of development;

Reason: In the interest of public health.

4.2. Adjoining lands to the immediate south of the application site:

MCC Ref: 23/60441:

MCC decided on the 15th of January 2025 to grant permission to Byrnell Developments Limited **(the applicants in this case)** for the construction of 2 no. 5 and 4 storey apartment blocks comprising a total of 45no. apartments.

Note: The decision is currently subject to a first party appeal under ABP- 321837-25.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Meath County Development Plan 2021-2027 (incl. variations 1 & 2) adopted on the 13th of May 2024, is the operative plan for the area. Chapter 6 Infrastructure Strategy is of reference to this appeal. The Meath County Development Plan 2021-2027 (MCDP) includes in Appendix 2, a written statement and Land Use Zoning and Cultural and Natural Heritage Maps for Navan.

5.1.2. **Zoning:** The appeal site accommodates two land use zoning objectives as follows:

Zoning Category: C1 Mixed Use

Objective: To provide for and facilitate mixed residential and employment generating uses

Guidance: The objective on these lands is to provide opportunities for high-density mixed-use employment generating activities that also accommodate appropriate levels of residential development thereby facilitating the creation of functional 'live work' communities.

5.2. Zoning Category: A2 New Residential

Objective: To provide for new residential communities with ancillary community facilities, neighbourhood facilities as considered appropriate.

Guidance: This is the primary zone to accommodate new residential development.

5.2.1. Relevant Policies / Objectives

It is the policy of the Council:

INF POL 16 To ensure that all planning applications for new development have regard to the surface water management policies provided for in the GDSDS.

INF POL 20 To require that a Flood Risk Assessment is carried out for any development proposal, where flood risk may be an issue in accordance with the “Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoECLG/OPW, 2009). This assessment shall be appropriate to the scale and nature of risk to and from the potential development and shall consider the impact of climate change

HER POL 31 To ensure that the ecological impact of all development proposals on habitats and species are appropriately assessed by suitably qualified professional(s) in accordance with best practice guidelines – e.g. the preparation of an Ecological Impact Assessment (EclA), Screening Statement for Appropriate Assessment, Environmental Impact Assessment, Natura Impact Statement (NIS), species surveys etc. (as appropriate).

It is an objective of the Council:

INF OBJ 15 To require the use of SuDS in accordance with the Greater Dublin Regional Code of Practice for Drainage Works for new developments (including extensions).

INF OBJ 16 To ensure that all new developments comply with Section 3.12 of the Greater Dublin Regional Code of Practice for Drainage Works V6 which sets out the requirements for new developments to allow for Climate Change.

INF OBJ 19 To ensure that developments permitted by the Council which involve discharge of wastewater to surface waters or groundwaters comply with the requirements of the EU Environmental Objectives (Surface Waters) Regulations and EU Environmental Objectives (Groundwater) Regulations.

INF OBJ 20 To implement the Planning System and Flood Risk Management-Guidelines for Planning Authorities (DoEHLG/OPW 2009) or any updated guidelines. A site-specific Flood Risk Assessment should be submitted where appropriate.

HER OBJ 33 To ensure an Appropriate Assessment in accordance with Article 6(3) and Article 6(4) of the Habitats Directives (92/43/EEC) and in accordance with the Department of Environment, Heritage and Local Government Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities, 2009 and relevant EPA and European Commission guidance documents, is carried out in respect of any plan or project not directly connected with or necessary for the management of the site but likely to have a significant effect on a Natura 2000 site(s), either individually or in-combination with other plans or projects, in view of the site’s conservation objectives.

5.3. National Policy and Guidelines

- The Planning System and Flood Risk Management - Guidelines for Planning Authorities (Nov 09)

5.4. Natural Heritage Designations

The site is not on or directly adjacent to any designated site. The River Boyne and River Blackwater SAC (Site Code: 002299) and SPA (Site Code: 004232) are located approx. 350m and 450m to west of the appeal site respectively. The Boyne Woods proposed NHA is located c4km to the northeast.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal lodged against the decision of Meath County Council to grant permission for development at Metges Road, Johnstown, Navan, Co. Meath. The appeal relates specifically to Condition 15(e) which requires the redesign of the existing box culvert under the IDA Entrance Road to the south to accommodate drainage from the subject site. The issues raised can be summarised as follows:

- It is contended that the works required under Condition 15 (e) are onerous and that the drainage issues can be addressed without the need to redesign the culvert.

- The appeal submission refers to the planning history of the site and notes that many of the surface water drainage and flooding issues, the subject of this appeal, were previously considered by An Bord Pleanála under ABP-304840 which was approved in October 2019.
- Hydraulic modelling of the culvert demonstrates that it can accommodate all the surface water discharge from the site without alteration with or without the development, and with the culvert capacity reduced by 66% as a result of a blockage.
- The modelling also clearly demonstrates that with or without development, any increase in the water level can stay within the existing stream banks and no third-party lands are impacted.

The appeal documentation includes:

- An Engineering Report on Condition 15(e)
- A copy of letter from Triturus Environmental Services which was submitted at request for further information stage (RFI stage). This letter includes a review of the proposed channel desilting and the existing box culvert. It contends that removing the silt from the drainage channel to increase the hydraulic storage capacity and maintaining the box culvert at its current invert level under the IDA entrance Road will continue to prevent untreated surface water runoff from Metges Road and from existing Priory residential development to the east of Metges Road discharging directly downstream.

6.2. Planning Authority Response

- The planning authority is satisfied that all matters outlined in the submission were considered over the course of the assessment of the planning application. they request that the Board uphold their decision and retain Condition 15.

6.3. Observations: None

7.0 Assessment

7.1. Introduction:

7.1.1. This first party appeal has been brought to An Bord Pleanála under the provisions of section 139 of the Planning and Development Act 2000 (as amended). Section 139 of the Act, allows, where an appeal is brought against a decision of the planning authority to grant permission and only relates to a condition then, if the Board is satisfied having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted, in its absolute discretion, give the relevant authority such direction it considers appropriate relating to the attachment, amendment or removal by that authority either of the condition or conditions to which the appeal relates or of other conditions.

7.1.2. In this case, the first party appeal relates to Condition 15. Condition 15 comprises measures to address outstanding issues identified in the assessment of the application relating to surface water drainage and flooding. The appeal relates specifically to part (e) which requires the applicant to redesign and upgrade the existing box culvert on third party lands at the IDA Entrance Road to the south. However, given the nature of the condition, I consider that a de-novo assessment of all issues relating to surface water drainage and flooding is warranted in this case.

7.1.3. I consider the issues can be addressed under the following headings:

- Flooding
- Surface Water Drainage
- Consideration of Condition 15 (e)

7.2. Flooding

7.2.1. The proposed development site comprises greenfield lands to the west of the Metgres Road in Navan. With reference to OPW CFRAM flood mapping and Meath County Council MapInfo flood mapping for the relevant area, the proposed

development site is in Flood Zone C but is situated to the north of an area that is in Flood Zone A where the probability of flooding is greater than 1% from fluvial flooding; i.e. it is at high risk of flooding and Flood Zone B where the probability of flooding is between 0.1% and 1% from fluvial flooding; i.e. it is at medium risk of flooding.

- 7.2.2. A Site-Specific Flood Risk Assessment (SSFRA) was submitted with the application. This document was updated at RFI stage to address deficiencies identified by the planning authority. The following assessment is informed by the updated SSFRA.
- 7.2.3. The SSFRA considers the possible flooding mechanisms of the proposed development site and identifies a possible fluvial flood event in the Athlumney Stream as a potential flood risk to the proposed development site. The report also recognises that the blockage of the of the 1500 mm x 600 mm concrete culvert downstream at the IDA Business Park access road, due to human/mechanical failure, would result in flooding but that the overland route would be southward across the IDA access road to re-join the stream with no impact on the proposed development.
- 7.2.4. CFRAM mapping indicates flooding within the Athlumney Stream with a maximum flood level of 45.0m AOD for the 0.1% AEP to the south of the proposed development site. The SSFRA notes that the proposed development is entirely within Flood Zone C and states that the lowest proposed finished ground level at the proposed development site is 45.7m AOD, leaving a minimum freeload of 0.7m above the 0.1% AEP event.
- 7.2.5. The SSFRA includes hydraulic analysis to estimate the peak flow and maximum flood levels in the Athlumney Stream for the 100 year and 1000-year return period events and to assess the impact of these flows on the development site. It considers 3 methods for assessing Critical Flow rates and uses the Rational Equation Method. This approach was deemed appropriate by the Environment Section of MCC. The SSFRA considers critical flood levels for the following scenarios:
- With development and without development for the 1% and 0.1% AEP events

- With development and without development for the 1% and 0.1% AEP events and the culvert under the IDA Business Park Access Road 66% blocked.

7.2.6. The results indicate that there is no increase in flood risk to the surrounding area from the proposed development in the scenarios modelled. However, it is noted that the modelled 'with development' scenarios are based on a lowered channel level within the Athlumney Stream, approximately from the location of the proposed surface water outfall to the upstream side of the existing culvert under the IDA Business Park access road. Works to lower this section of the stream have not been included as part of the application and relate to third party lands outside of the application red line boundary.

7.2.7. The conclusions of the SSFRA, as set out in Section 5.7 of the report, are that: The proposed development is appropriate in terms of meeting the flood risk and stormwater impact policies and objectives of the County Development Plan and that the proposed development is

- Considered to have the required level of flood protection
- Does not increase in the flood risk to other third parties or lands
- Meets the various requirements of the OPW Guidelines in relation to flood risk

7.2.8. As noted above, the findings and conclusions of the SSFRA are based on a modelling scenario where a section of the Athlumney Stream, outside of the site, is lowered by desilting the channel bed. In accordance with the information on file the applicant has obtained the agreement in principle of the relevant landowner (IDA Ireland) to undertake desilting/regrading works to the stream within their lands via a licence arrangement with the applicant's contractor. The agreement is subject to IDA Board approval and to various terms and conditions. It is stated in the applicants RFI response that these works will be undertaken subject to a successful grant of permission and taking due cognisance of the appropriate environmental approvals. However, I am not satisfied that this arrangement is sufficient to ensure that the necessary works to the stream can and will be implemented.

7.2.9. Further to the above, I note that the Environment Flooding- Surface Water Section of MCC, as set out in their report to the planning authority (dated 14/01/2025) are not satisfied that the extent of the agreed desilting works is sufficient to facilitate the required drainage and conveyancing necessary to convey critical flood flows. They consider that the stream channel will have to be substantially deepened in places and trees be removed to accommodate critical flood flows and that the existing palisade fence bordering the stream will have to be removed for maintenance purposes. They are not satisfied that in the absence of the provision of a clear and maintainable channel at appropriate grade that critical flood flows in this area will not result in increased flood risk elsewhere.

7.2.10. I note that the planning authority in their decision to grant permission for the proposed development included a condition (Condition 7) which requires works to the stream and the existing downstream culvert, subject to agreement with the landowner. However, I do not agree with the approach taken by the planning authority in this regard. In my opinion all works necessary to facilitate the proposed development should be included as part of the application and assessed accordingly.

7.3. Surface Water Drainage:

7.3.1. There are two parallel open drains running in a north south direction along the western boundary of the site. The eastern side drain (unnamed) is within the boundaries of the site while the western side drain, referred to as the Athlumney Stream, is outside the red line boundary of the site, on third party lands in the control of IDA Ireland. At present, surface water runoff from a section of the Metges Road and from the existing housing estate immediately to the east of Metges Road is conveyed across the site to the eastern side drain which in turn discharges to the Athlumney Stream.

7.3.2. It is proposed to discharge the storm water runoff from the proposed development to the Athlumney Stream at the southern end of the development. It is also proposed replace the existing eastern side drainage ditch on the site with 2x600mm diameter surface water pipes laid in the ditch at levels that approximately match the existing ditch levels with a headwall outfall fitted with a non-return valve. The surface water

drainage system is designed to reduce the rate of run-off to 2.3 l/s/ha for the proposed development site.

- 7.3.3. Following their initial assessment of the application the planning authority were not satisfied that the surface water drainage system was designed in accordance with Greater Dublin Strategic Drainage Study (GDSDS), a revised system design was requested at RFI stage.
- 7.3.4. The applicant's response to the RFI request refers to correspondence with Meath County Council (MCC) in which it is stated that MCC expressed the opinion that the Athlumney Stream needed to be regraded from the site outfall location to the culvert and that the culvert needed to be lowered to achieve satisfactory pipe gradients and pipe cover within the proposed development.
- 7.3.5. The applicant's response to the RFI request confirmed a significant build-up of silt in the Athlumney Stream. To address this issue the applicant obtained an agreement in principle with the relevant landowner (IDA Ireland) to undertake desilting/regrading works to a section of the stream via a licence arrangement with the applicant's contractor (Donnelly Civil Engineering). The agreed works relate to a section of the stream approximately from the location of the proposed surface water outfall to the upstream side of the existing culvert under the IDA Business Park access road. The works are not proposed as part of this application.
- 7.3.6. I note that the applicants revised surface water drainage design is based on a lowered channel level within the Athlumney Stream. The development is therefore reliant on works on third party lands outside of the application site boundary. These works have not been included within the application and would require detailed consideration, including consideration in respect of Appropriate Assessment and the Water Framework Directive. I recommend that planning permission be refused on this basis
- 7.3.7. Further to the above, I note that MCC's Environment Flooding- Surface Water Section, in their report to the planning authority dated 14th January 2025, raised

additional issues relating to the applicant's surface water drainage design, as follows:

- The proposed attenuation storage system is not acceptable due to the very high-water table levels, poor infiltration rates and poor ground conditions on the subject site.
- Sections of surface water drainage in trafficable areas that have less than 750mm cover with concrete surround. This is not acceptable to the planning authority as it will lead to pipe deformation and pipe defects which could result in future blockages and potential localised flooding.
- The proposed headwall is shown outside the redline boundary and in 3rd party lands.

7.4. Consideration of Condition 15

- 7.4.1. Meath County Council decided to grant permission for the proposed residential scheme subject to condition. Condition 15, the subject of this first party appeal, includes measures to the address outstanding issues identified in the planning authority's assessment of the application, relating to the treatment and disposal of surface water and to flooding. The full text of condition 15 is provided in Section 3.1 of this report. While I note that the first-party grounds of appeal raises issue with condition 15 (e), only; I consider it appropriate, in the interest of completeness to consider Condition 15 in full, as follows:

Condition 15 (a), (b) and (c)

- 7.4.2. Condition 15 parts (a), (b) and (c) relate to works to the Athlumney Stream deemed necessary to facilitate the proposed development. They require the applicant to enter into an agreement with the relevant landowner (IDA Ireland) to carry out works to the stream sufficient to ensure that it can accommodate critical flood flows and to ensure the maintenance of the stream. In my opinion, these conditions, which relate to and require works on third-party lands, outside of the control of the applicant are

unreasonable and I am not satisfied that the applicant has sufficient control over the necessary lands to ensure that the conditions are fully complied with.

Condition 15 (d)

- 7.4.3. Condition 15(d) requires the applicant to submit a revised surface water drainage system for the site. As noted in Section 7.3.7 above, concerns were raised in the assessment of the application regarding the design the surface water drainage system for the site. I am satisfied that the design issues raised could be addressed by way of condition.

Condition 15 (e), Appealed

- 7.4.4. Condition 15(e) the subject of this first party appeal, requires that the applicant redesign the existing culvert at the IDA entrance road. The condition stipulates that the redesigned culvert be constructed by the applicant or by the owner of the land. It also requires the applicant to obtain the agreement of relevant third parties to enable the applicant to carry out the works to the culvert and any other drainage works (including for the headwalls construction) on the drain adjacent to the western boundary.
- 7.4.5. It is the contention of the applicant, as set out in the grounds of appeal, that redesign of the culvert at the IDA entrance is unnecessary. The applicant's contention in this regard is based on the findings and conclusions of the Site-specific Flood risk Assessment and on the opinion of Ross Macklin Triturus Environmental Services, that removing the silt from the drainage channel to increase the hydraulic storage capacity and maintaining the box culvert at its current invert level under the IDA access road would contribute to preventing untreated surface water runoff from Metges Road and from the existing Priory residential development to the east of Metges Road discharging directly downstream. A copy of a related letter from Ross Macklin of Triturus Environmental Services has been included as part of the appeal documentation.

- 7.4.6. However, given that the SSFRA and the opinion of Ross Macklin Triturus Environmental Services, are based on a lowered channel level within the Athlumney Stream and given the uncertainty that exists regarding the necessary works to the stream and the applicants ability to carry out same I am not satisfied based on the information submitted that the proposed development, in the absence of a redesigned culvert would not result in flooding.

Further to the above, I note that Condition 15 (e) requires works on third party lands outside of the application (red line) boundary. I therefore have concerns regarding the applicant's ability to ensure compliance with the requirements of the condition.

Conclusion:

- 7.4.7. The Site-Specific Flood Risk Assessment and surface water drainage design for this development are based on a lowered channel level within a section of the Athlumney stream. This would require works on third-party lands outside of the application boundary. While I note that the applicant has obtained an agreement in principle with the relevant landowner to carry out the works, I am not satisfied that this is sufficient to ensure the necessary works can and will be implemented nor am I satisfied that this matter can be addressed by way of condition as per the decision of the planning authority. I therefore recommend that permission for this development be refused.

8.0 AA Screening

- 8.1. The Habitats Directive deals with the conservation of Natural Habitats and of wild fauna and flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

Stage 1- Screening Determination for Appropriate Assessment

8.2. See Appendix 2 - Screening for Appropriate Assessment on file. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on

- the River Boyne and River Blackwater SAC (code 002299) and
- the River Boyne and River Blackwater SPA (code 004232)

in view of the conservation objectives of a number of qualifying interest features of those sites.

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

Stage 2 – Conclusion for Appropriate Assessment

8.4. In carrying out an Appropriate Assessment (Stage 2) of the project (included in Appendix 3 of this report), I have assessed the implications of the project on the River Boyne and River Blackwater SAC (code 002299) and the River Boyne and River Blackwater SPA (code 004232) in view of their conservation objectives. I have had regard to the applicants Natura Impact Assessment and all other relevant documentation and submissions on the case file. I am **not** satisfied that the information provided is adequate to allow for Appropriate Assessment nor am I satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness. There remains significant reasonable scientific doubt that the proposed development would not adversely impact on the integrity of the River Boyne and River Blackwater SAC (code 002299) and the River Boyne and River Blackwater SPA (code 004232) and these matters cannot be addressed by way of planning conditions. In such circumstances, the Board is precluded from granting permission.

8.5. Therefore, on the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessments carried out in respect of this development, I am not satisfied that the proposed development

individually, or in combination with other plans or projects would not adversely affect the integrity of European sites, the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater SPA (code 004232), in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission under the provisions of Article 6(3) of the Habitats Directive (92/43/EEC).'

8.6. This conclusion is based on the following:

- The proposed development is reliant on works (desilting / regrading etc) to the Athlumney Stream, that provides hydrological pathway to the River Boyne, part of the River Boyne and Blackwater SAC and SPA
- The full nature and extent of the works to the Athlumney Stream necessary to facilitate the development of the site as proposed has not been clearly established.
- The works to the Athlumney Stream necessary to facilitate the development may give rise to potential effects on the River Boyne and River Blackwater SAC (code 002299) and / or River Boyne and River Blackwater SPA (code 004232) which have not been considered as part of the Stage 1 Screening or Stage 2 AA.

9.0 EIA Screening

- 9.1.1. 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.

10.0 Water Framework Directive

- 10.1. I have considered the proposed development in terms of the Water Framework Directive (See Appendix 4 WFD Impact Assessment Stage 1 – Screening). The subject site is located on the western side of the Metges Road in Navan. The site is bounded to the west by the Athlumney Stream which drains the site. The Athlumney Stream forms part of the river waterbody – Boyne_120 (Code: IE_EA_07B041700) and is a tributary of the River Boyne.
- 10.2. It is proposed to discharge the storm water runoff from the proposed development to the Athlumney Stream. The development as proposed is reliant on works (desilting/regrading) to the Athlumney stream. Condition 15 of the planning authority's decision requires the applicant to submit proposals (subject to agreement with the IDA, as landowner) to clear and regrade the Athlumney Stream such that the watercourse can accommodate critical flood flows in the channel. The full nature and extent of the works required has not been fully determined.
- 10.3. I have assessed the proposed residential scheme and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks to protect and, where necessary, restore surface & groundwater waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having regard to the lack of detail in the information submitted with the planning application and the appeal documentation, as to the full nature and extent of the works required and the associated effects requiring mitigation measures, I am not satisfied that the project can be eliminated from further assessment as there remains a risk to the surface water body – the Boyne_120 (code: IE_EA_G_002).
- 10.4. This conclusion is based on the following:
- The proposed development is reliant on works (desilting / regrading etc) to the Athlumney Stream, part of the water body, Boyne_120 (code: IE_EA_G_002),
 - The full nature and extent of the necessary works to the Athlumney Stream has not been established.

- The works to the Athlumney Stream necessary to facilitate the development may give rise to potential effects on Boyne_120 (Code IE_EA_G_002) requiring mitigation.

I conclude that on the basis of objective information, that the proposed development has the potential to result in the deterioration of the river water body, the Boyne_120 (IE_EA_G_002), which may jeopardise the potential of the watercourse in reaching its WFD objectives.

11.0 Recommendation

11.1. I recommend that permission for the proposed development be refused for reasons outlined below.

12.0 Reasons and Considerations

- 1** On the basis of the information submitted with the application and appeal, it is considered that the development of this site as proposed would be reliant on works which are on third party lands outside of the application site (red line) boundary. In such circumstances, the board cannot be satisfied that the relevant works can be implemented in full. To permit this development where such uncertainty exists would be contrary to proper planning and development.
- 2** Having regard to the lack of detail in the information submitted with the planning application, the appeal documentation and the NIS, as to the full nature, extent and scale of the works required to facilitate the development of this site as proposed and the associated effects of the works requiring mitigation measures to protect the integrity of the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater SPA (code 004232), the Board cannot be satisfied that the proposed development, individually, or in combination with other plans and projects would not be likely to have an adverse effect on the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater

SPA (code 004232) in view of the sites conservation objectives. There remains significant reasonable scientific doubt that the proposed development would not adversely impact on the integrity of the SAC and / or SPA (downstream) and these matters cannot be addressed by way of planning conditions. In such circumstances, the Board is precluded from granting permission.

- 3 The development of this site as proposed is reliant on works (desilting/regrading) to the Athlumney stream, part of the Boyne River Catchment, (Boyne_120, Code: IE_EA_G_002). Having regard to the lack of detail in the information submitted with the planning application and the appeal documentation, as to the full nature, and extent of the works required and the associated effects of the works requiring mitigation measures to protect the waterbody. The Board is not satisfied that the development will facilitate compliance with Article 4(1) of the water framework directive. To permit the development in such circumstances would be contrary to proper planning and development.

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

Lucy Roche
Planning Inspector

26th May 2025

Appendix 1 - Form 1 - EIA Pre-Screening

Case Reference	321847
Proposed Development Summary	Retail food store with ancillary off-licence sales area and all associated site works.
Development Address	Metges Road, Johnstown, Navan, Co. Meath
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (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.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>Class 10. Infrastructure projects</p> <p>(b) (iii) Construction of a shopping centre with a gross floor space exceeding 10,000 square metres.</p> <p>(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.</p>

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Appendix 1 - Form 2 - EIA Preliminary Examination

Case Reference	321847
Proposed Development Summary	Retail food store with ancillary off-licence sales area and all associated site works.
Development Address	Metges Road, Johnstown, Navan, Co. Meath
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	Briefly comment on the key characteristics of the development, having regard to the criteria listed. The proposal comprises the construction of a retail foodstore with a stated GFA of 1,840 sq. m and all associated infrastructure and site ancillary works on a stated site area of 0.818ha. The development, comes forward as a standalone project, does not require the use of substantial natural resources or give rise to significant risk of pollution or nuisance. The project uses standard construction methods materials and equipment, and the process managed through the implementation of a CEMP. The development by virtue of its type does not pose a risk of major accident and / or disaster or is vulnerable to climate change. It presents no risks to human health
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	Briefly comment on the location of the development, having regard to the criteria listed The site is not located within or immediately adjacent to any designated site. A hydrological connection between the development site and the River Boyne and River Blackwater SAC (Site Code: 002299) and SPA (Site Code: 004232) exists. An NIS has been submitted with the application. Potential impacts on designated European site can be addressed under Appropriate Assessment.

	<p>Compliance with Article 4(7) of the Water Framework Directive will also be considered as part of the application.</p> <p>The site is situated to the north of lands within Flood Zones A and B, where there is a medium to high risk of flooding. A Site-Specific Flood Risk Assessment (updated at FI stage) has been submitted with the application.</p> <p>The proposed development would use the public water and wastewater services of Uisce Eireann, upon which its effects would be marginal.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects.</p> <p>Having regard to the nature of the proposed development, its location removed from sensitive habitats / features, likely limited magnitude and spatial extent of effects and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>
Conclusion	
<p>Likelihood of Significant Effects</p>	<p>Conclusion in respect of EIA</p>
<p>There is no real likelihood of significant effects on the environment.</p>	<p>EIA is not required.</p>

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 2 - Screening for Appropriate Assessment.

Step 1: Description of the project and local site characteristics

Brief description of project	Retail food store with ancillary off-licence sales area and all associated site works.
Brief description of development site characteristics and potential impact mechanisms	<p>The proposal is for the construction of a single storey retail food store with a stated GFA of 1,840 sq. m and on a stated site area of 0.818ha. The site is presently wooded with deciduous trees. 1996 and 1999 Ordnance Survey imagery suggests the land was in agricultural use (grassland) up to the 1990s.</p> <p>The elevation of the site falls gradually from north to south, with the existing levels on site approximately 47 m OD</p> <p>The site is bounded to the west by the Athlumney Stream which drains the site. The Athlumney Stream flows southwards and merges with the River Boyne at Kilcarn. Sections of the Metges Road surface water drainage system discharge to an open ditch on the site and this in turn discharges to the Athlumney Stream on the western boundary of the site.</p>
Screening report	Yes
Natura Impact Statement	Yes
Relevant submissions	Third party submissions to the planning authority raise concerns regarding the impact of the development on the natural environment and habitat. They consider the NIS to be inadequate.

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

European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
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River Boyne and Blackwater SPA (Site Code: IE0004232)	Kingfisher (<i>Alcedo atthis</i>) https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004232.pdf	c. 445m	Indirect Hydrological connection between the project site and the SPA via the Athlumney Stream, with a channel distance of just less than 1,000 m between the two locations.	Yes
River Boyne and Blackwater SAC (Site Code: IE0002299)	<ul style="list-style-type: none"> Alkaline fens Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i>, <i>Salicion albae</i>) <i>Lampetra fluviatilis</i> (River Lamprey) <i>Salmo salar</i> (Salmon) <i>Lutra lutra</i> (Otter) https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002299.pdf	C. 380m	Indirect Hydrological connection between the project site and the SPA via the Athlumney Stream, with a channel distance of just less than 1,000 m between the two locations	Yes

¹ Summary description / **cross reference to NPWS website** is acceptable at this stage in the report

² Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species

³if no connections: N

Further Commentary / discussion

The AA screening report notes that while the proposed development site has theoretical connectivity, via the River Boyne, with other European sites downstream of Drogheda town, namely Boyne Coast and Estuary SAC (code 001957) and Boyne Estuary SPA (code 004080), there is a channel distance of approximately 35 km between the Metges Road site and the two European sites. Due to the geographical separation and allowing for an enormous volume of mixing water within the river, the report concludes that there is no realistic prospect that the proposed development at Metges Road could have impacts on these two sites. I would agree with this conclusion.

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

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Site 1: River Boyne and River Blackwater SPA (Site Code: IE0004232)	<u>Direct</u> : None <u>Indirect</u> :	A decline in water quality would undermine the conservation objectives set for water quality targets and to prey availability

Kingfisher atthis)	(Alcedo	<p>During the Construction Phase, potential sources for water pollution from the construction site to local drains and the Athlumney Stream include:</p> <ul style="list-style-type: none"> • Suspended solids derived from soil excavation and movement within site. • Run-off from wet cement surfaces which can result in alkaline water with high pH. • Leakages and spillages of hydrocarbons. <p>The proposed development is reliant on works (desilting / regrading) to the Athlumney Stream outside of the site. Works to the stream while not proposed as part of the planning application are required by way condition as per the PA decision. The full nature and extent of works required is unclear however such works have the potential to result in changes in hydromorphology and in the water quality of the stream by way of</p> <ul style="list-style-type: none"> • disturbance of sediment in the stream • release of contaminants from disturbed sediment, • spillages from machinery etc <p>During the Operation Phase, potential leakage of petrol/diesel fuel from vehicles in parking areas could result in the entry of petroleum products to local watercourses.</p>	
Likelihood of significant effects from proposed development (alone):			Yes
If No, is there likelihood of significant effects occurring in combination with other plans or projects?			
	Impacts	Effects	
Site 2:	As above	In the absence of mitigation, the input of potential pollutants to the	

<p>River Boyne and River Blackwater SAC (Site Code: IE0002299)</p> <p><u>QI list</u></p> <ul style="list-style-type: none">• Alkaline fens• Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae)• <i>Lampetra fluviatilis</i> (River Lamprey)• <i>Salmo salar</i> (Salmon)• <i>Lutra lutra</i> (Otter)		<p>River Boyne and River Blackwater SAC, via the Athlumney Stream, could have potential effects on the following qualifying interests of the SAC:</p> <ul style="list-style-type: none">• 1099 River lamprey• 1106 Salmon• 1355 Otter <p>Negative effects on the two qualifying habitats, alkaline fen and Alluvial forests are unlikely due to the following:</p> <ul style="list-style-type: none">• The main areas of alkaline fens are located c.30km to the north and upstream of the proposed development site.• The closest wet woodland is located in the vicinity of Drogheda c35 km downstream.
Likelihood of significant effects from proposed development (alone):	Yes	
If No, is there likelihood of significant effects occurring in combination with other plans or projects?		
Step 4 Conclude if the proposed development could result in likely significant effects on a European site		
<p>It is not possible to exclude the possibility that proposed development alone would result significant effects on the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater SPA (code 004232) from effects associated with Water quality degradation.</p> <p>An appropriate assessment is required on the basis of the possible effects of the project ‘alone’. Further assessment in-combination with other plans and projects is not required at screening stage.</p> <p>Proceed to AA.</p>		

Appendix 3 - Appropriate Assessment

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

Taking account of the preceding screening determination, the following is an appropriate assessment of the implications of the proposed residential development in view of the relevant conservation objectives of the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater SPA (code 004232) based on scientific information provided by the applicant.

The information relied upon includes the following:

- Natura Impact Statement prepared by BioSphere Environmental Services
- Ecological Impact Assessment Report prepared by BioSphere Environmental Services
- Letter from Triturus Environmental Ltd, submitted with the application and appeal.

I am **not** satisfied that the information provided is adequate to allow for Appropriate Assessment nor am I satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness.

It is proposed to discharge the storm water runoff from the proposed development to the Athlumney Stream which extends along the western boundary of the site, outside of the application redline boundary. During the course of the planning authority's assessment of the application, it was established that works to desilt / re-grade the Athlumney stream would be required in order to increase its hydraulic storage capacity, to ensure the provision of satisfactory arrangements for the management of surface water and to prevent flooding. This would necessitate works on third party lands, outside of the application redline boundary.

In accordance with the information on file, the applicant obtained the agreement in principle of the relevant landowner (IDA Ireland) to undertake desilting/regrading works to the stream within their lands via a licence arrangement with the applicant's contractor (Donnelly Civil Engineering). As per the details provided at RFI stage, these works are to be undertaken subject to a successful grant of permission, taking due cognisance of the appropriate environmental approvals. The necessary works to the stream have not been included as part of the application nor have they been considered in the applicant's Appropriate Assessment Screening document or NIS.

MCC's Environment Flooding-Surface Water Section in their report to the planning authority (14/01/205) stated their opinion that the extent of the desilting works agreed between the applicant and the IDA would not be sufficient to facilitate the required drainage and conveyance necessary to convey critical flood flow. In their opinion, it would be necessary to substantially deepen the channel in places and to remove mature trees from the channel base to accommodate flood flows.

Condition 15 as attached to the grant of permission of MCC requires that the applicant submit, for the written agreement of the planning authority, an agreement with the IDA that will enable the applicant to clear and regrade the Athlumney Stream adjacent to the subject site such that the watercourse can accommodate critical flood lows in the Channel. The design and extent of the works are to be agreed with the planning authority. Condition 15(e) also requires a redesign of the culvert at the entrance to IDA lands to accommodate drainage from the subject site.

In my opinion, proposals put forward in compliance with Condition 15 may give rise to potential effects on a European site which have not been considered in the applicants Appropriate Assessment screening report or NIS. I note that consent can only be given after Appropriate Assessment of the implications of a project on a European site, having determined that the proposed development would not adversely affect the integrity of the site in view of its Conservation Objectives (where Article 6(4) does not apply). All aspects of the proposed development which can, by itself or in combination with other plans and projects, adversely affect the European site in light of its Conservation Objectives should be subject to detailed assessment.

Submissions/observations

N/A

Public observations

- Inadequacy of the NIA
- Impacts on habitats and species

River Boyne and River Blackwater SAC (code 002299):

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

(i) Water quality degradation (construction and operation)

Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes (summary-inserted)	Potential adverse effects	Mitigation measures (summary)
			NIS SECTION 3
Lampetra fluviatilis (River Lamprey) [1099]	Restore favourable conservation condition No decline in extent and distribution of spawning beds	Water degradation would undermine conservation objectives	Best practice pollution control measures Application of industry standard controls,

Salmo salar (Salmon) [1106]	Restore the favourable conservation condition Water quality At least Q4 at all sites sampled by EPA	Water degradation would undermine conservation objectives	Construction management Plan Sustainable Urban Drainage System (SuDS).
Lutra lutra (Otter) [1355]	Maintain favourable conservation condition (Fish biomass available)	Significant degradation of water quality may adversely affect foraging/ fish biomass	

Other Qi's

Alkaline fens Alluvial forests with Alnus glutinosa and Fraxinus excelsior	Not at risk – Outside the zone of influence
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River Boyne and River Blackwater SPA (code 004232):

Summary of Key issues that could give rise to adverse effects (from screening stage):
[examples]
(i) Water quality degradation (construction and operation)

Kingfisher (Alcedo atthis) [A229]	Maintain favourable conservation condition Water Quality	Decrease in water quality	As above
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The submitted NIS does not identify the relevant attributes and targets of the Qualifying Interests. The information provided in relation to same is based on by review of the conservation Objective documents available on the NPWS website.

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

Water quality degradation

Good quality water is necessary to maintain the populations of the Annex I and II species listed. Decrease in water quality would compromise conservation objectives for Annex II species listed and increase sedimentation could alter habitat quality for spawning or nursery grounds. Ecological surveys at the site showed that the channel of the Athlumney Stream alongside the site is not suitable for kingfisher Alcedo or otter as the stream in this section does not support fish or other aquatic species.

Mitigation measures and conditions

The mitigation measures outlined in Section 3 of the NIS focus on preventing ingress of pollutants and silt into local drains, the Athlumney Stream and ultimately the River Boyne during construction and operational phases. I am satisfied that the preventative measures which are primarily aimed at interrupting the source-pathway-receptor are targeted at the key threats to protected aquatic species and by arresting these pathways or reducing possible effects to a non-significant level, adverse effects can be prevented.

Works to the Athlumney Stream:

The development of this site as proposed is reliant upon works to the Athlumney Stream (desilting, regrading etc) outside of the site. Insufficient information has been submitted with the planning application, the appeal documentation and the NIS, as to the full nature, extent and scale of the works required and the associated effects requiring mitigation measures to protect the integrity of the River Boyne and River Blackwater SAC and SPA.

I am not satisfied that the mitigation measures outlined in the NIS would prevent adverse effects for this aspect of the development.

In-combination effects

I am not satisfied that in-combination effects has been assessed adequately in the NIS.

Findings and conclusions

The applicant determined that the information contained in the NIS will enable the competent authority to ascertain that the proposed development, alone or in combination, with other plans and projects, will not adversely affect the integrity of any of the European Sites concerned.

However, having regard to the lack of detail in the information submitted with the planning application, the appeal documentation and the NIS, as to the full nature, extent and scale of the works required and the associated effects requiring mitigation measures to protect the integrity of the River Boyne and River Blackwater SAC and SPA, I am not satisfied that effects arising from aspects of the proposed development can be excluded for the European sites considered in the appropriate Assessment. There remains significant reasonable scientific doubt that the proposed development would not adversely impact on the integrity of the River Boyne and River Blackwater SAC and SPA and these matters cannot be addressed by way of planning conditions. In such circumstances, the Board is precluded from granting permission

Appropriate Assessment Conclusion: Integrity Test

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater SPA (code 004232). in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U/ 177AE was required.

On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European sites, the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater SPA (code 004232), in view of the site's Conservation Objectives.

In such circumstances the Board is precluded from granting approval/permission under the provisions of Article 6(3) of the Habitats Directive (92/43/EEC).'

This conclusion is based on the following:

- The proposed development is reliant on works (desilting / regrading etc) to the Athlumney Stream, that provides hydrological pathway to the River Boyne, part of the River Boyne and Blackwater SAC and SPA
- The full nature and extent of the necessary works to the Athlumney Stream has not been established.
- The works to the Athlumney Stream necessary to facilitate the development may give rise to potential effects on a European site which have not been considered as part of the Stage 1 Screening or Stage 2 AA.

Appendix 4 - WFD IMPACT ASSESSMENT STAGE 1: SCREENING

Step 1: Nature of the Project, the Site and Locality

An Bord Pleanála ref. no.	321837	Townland, address	Johnstown, Navan, Co. Meath
Description of project		Retail scheme with connections to Uisce Eireann Wastewater and Drinking water infrastructure.	
Brief site description, relevant to WFD Screening,		<p>The site is presently almost totally wooded with deciduous trees. The elevation of the site falls gradually from north to south, with the existing levels on site approximately 47 m OD.</p> <p>The reports of the Environment Flooding and Surface Water Section note the very high-water table levels, poor infiltration rates and poor ground conditions on the subject site.</p> <p>The site is bounded to the west by the Athlumney Stream which drains the site. The Athlumney Stream flows southwards and merges with the River Boyne at Kilcarn. At present, surface water runoff from a section of the Metges Road and from the existing housing estate immediately to the east of Metges Road is conveyed across the site to the eastern side drain which in turn discharges to the Athlumney Stream. The proposed development is entirely within Flood Zone C but is situated just north of an area that is in Flood Zone A where the probability of flooding is greater than 1% from fluvial flooding; i.e. it is at high risk of flooding and Flood Zone B where the probability of flooding is between 0.1% and 1% from fluvial flooding; i.e. it is at medium risk of flooding.</p>	

Proposed surface water details			<p>The proposal includes SuDS Measures. Condition 15(d) of the PA decision requires that the applicant submit a revised surface water drainage system in accordance with GDSDS etc.</p> <p>It is proposed to discharge the storm water runoff from the proposed development to the Athlumney Stream. It is also proposed to divert the existing drains on the site to the Athlumney Stream. The applicant proposes to undertake desilting/regrading works to the Athlumney stream. Condition 15 (a) of the PA decision requires the Applicant to submit amended proposals (subject to agreement with the IDA, as landowner) that will enable the applicant to clear and regrade the Athlumney Stream adjacent to the subject site such that the watercourse can accommodate critical flood flows in the channel. The full nature and extent of the works required is unknown.</p>			
Proposed water supply source & available capacity			Public Mains - The application includes confirmation from Uisce Eireann that a water connection is feasible without infrastructure upgrade			
Proposed wastewater treatment system & available capacity, other issues			Public Mains - The application includes confirmation from Uisce Eireann that a connection is feasible without infrastructure upgrade			
Others?			No			
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)

Athlumney Stream	Adjacent to western boundary	Boyne – 120 Code: IE_EA_07B04 1700	Moderate	At Risk	Agriculture	Yes – discharge to stream surfacewater run off
Groundwater	Underlying site	Trim Code: IE_EA_G_002	Good	At risk	DWTS, unknown, agriculture	High Water Table.

Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	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.
1.	De-silt / regrading of Athlumney Stream	Boyne_120 Code: IE_EA_07B0 41700	Direct – works to stream. Full nature and extent of works required - unknown	Changes to hydromorphology; water quality impacts	Uncertain	Uncertain	Screened In
2.	Filling in of drainage ditch that discharges to Athlumney Stream	Boyne _120 Code: IE_EA_07B0 41700	Surface water to discharge directly to Athlumney Stream	water quality impacts – spillages	Standard construction practices CEMP	yes	Screened out
3.	Site clearance/construction	Boyne _120	Existing proximity to stream	Water quality impacts- Spillages	Standard construction practice	Yes	Screened Out

					CEMP		
4.	Site clearance/construction	Trim IE_EA_G_002	existing – proximity to stream	Water Quality Impacts - Spillages	Standard construction practice CEMP	yes	Screened Out
OPERATIONAL PHASE							
4.	Surface Water discharge	Boyne _120	Discharge to surface water stream	Spillages	SUDs Features	No	Screened Out
5.	Discharges to Ground	Trim Code IE_EA_G_002	Pathway exists	Spillages	SUDs Features	No	Screened Out
DECOMMISSIONING PHASE							
5.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Conclusion							
Having regard to the lack of detail in the information submitted with the planning application and the appeal documentation, as to the full nature, extent and scale of the works required to the Athlumney Stream necessary to facilitate the development of this site as proposed / permitted and the associated effects requiring mitigation measures, It cannot be determined that the development would facilitate compliance with Article 4(1) of the Water Frameworks Directive. Consequently, the proposed scheme cannot be excluded from further assessment.							

