Inspector's Report ABP-322591-25

Development	Permission for the erection of 2 no. fully serviced dwelling houses.
Location	Mersheen, Ballyhack Ed, New Ross, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20241472
Applicant(s)	Noel Hayes
Type of Application	Planning Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party v Decision
Appellant(s)	Noel Hayes
Observer(s)	Noel & Frances Maher
Date of Site Inspection	8th August 2025
Inspector	Dan Aspell

1.0 Site Location and Description

1.1.1. The site address is given as Mersheen townland, Ballyhack Electoral District, New Ross, Co. Wexford. I describe the site as being in Arthurstown village, Co. Wexford.

1.1.2. The site is accessed off Strand Road. Strand Road is a cul de sac which skirts along the south-eastern edge of what is known as King's Bay (also knonw as Arthurstown Bay). The site is located at the end of Strand Road approximately 15m from the vehicular access to Arthurstown Pier. The access to the Pier is open. Strand Road reduces to single lane width past the site.

1.1.3. The site is located on the southern side of Strand Road, between approximately 15m and 20m from King's Bay. The Bay edge comprises a seawall incorporating flood defence wall. From the land side, the wall is approximately 1m in height. Between the site and King's Bay is the road and an open area which contains a pump house.

1.1.4. Kings Bay forms part of Waterford Harbour Estuary. The Bay exhibits significant tidal exchange, and is essentially fully evacuated at low tide and inundated at high tide.

1.1.5. The site comprises derelict stone sheds, concrete walls and retaining structures. There is a dwelling to the north-east. The access to this dwelling runs adjacent the site to the south-east. An area of high ground extends beyond this to the south-east. The Pier wall is to the south-west. Strand Road is to the west and north-west. There are a number of dwellings along Strand Road approximately 55m to the north-east.

2.0 Proposed Development

2.1.1. The development comprises the erection of two houses. The application and response to further information included cover letters from the applicant's architect and engineer; site specific Flood Risk Assessment prepared by the applicant's engineer; Appropriate Assessment screening report; a Services Plan; site photographs; architectural and engineering drawings; and 'Wave-Overtopping Report'.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Wexford County Council issued a notification to refuse permission for 1 no. reason:

- Reason 1: *"The application site is located within a Category A and Category B flood zone. The submitted Site Specific Flood Risk Assessment (SSFRA) lacks the minimum required information and has still provided contradictory information following a request of further information which leaves the SSFRA deficient in detail and assessment. In the absence of such detail and assessment, the proposed development is likely to be prejudicial to public health, would be contrary to Section 1.5.3, of Volume 2, and Objective FRM 08 set out in Section 9.11.10 (Volume 1) of the Wexford County Development Plan 2022-2028 and would, therefore, be contrary to the proper planning and sustainable development of the area."*

3.2. Planning Authority Reports

3.2.1. Planning report: The report recommended refusal. I note the following points:

- Principle: Site is in Arthurstown village. Given location adjacent King's Bay and flood defences, development would have to satisfy flood risk assessment;
- Flood risk: Site is in flood zone A. Further Information was requested in relation to contradictory information submitted; the full risk from wave overtopping to be identified and assessed; and longitudinal sections including house finished floor levels; road levels; temporary, permanent flood barrier levels; extreme water levels; and wave overtopping levels. Planner Report considers the applicant response failed to address the previous reason for refusal. Report states that Coastal Engineer recommended refusal as the application lacks key information in relation to flood risk;
- Surface water: Discharge to existing stormwater sewer network proposed. Existing site is hard-surfaced and as such proposed development does not increase surface water runoff;

- Effluent: Mains connection is proposed. Confirmation of Feasibility from Irish Water is submitted;
- Water supply: Mains connection is proposed. Confirmation of Feasibility from Irish Water is submitted;
- Roads: One on-site parking space per dwelling is proposed. Report from Roads Department recommends permission be granted;
- Appropriate Assessment (AA) screening: Report concurs with findings of submitted AA Screening Report that no significant effects arise. Planner Report states the potential hydrological links are noted however there is intervening lands between the qualifying habitats and the proposed;
- Heritage: Site is not a Protected Structure, in a Conservation Area, or a Registered Monument. Report states the proposal relates to a lime kiln which is part of Arthurstown's local heritage and therefore has local historical and cultural significance;
- Design, Layout & Materials: Previous application for 2 no. 2-storey dwellings raised issues with visual impact and impact on residential amenity. Subject proposal is for 2 no. single-storey dwellings;

Other Technical Reports

3.2.2. Environment Report (Coastal): Report recommended refusal as the application lacked key flood risk information for an informed decision to be made. I summarise the main points as follows:

- The ICPSS (Irish Coastal Protection Strategy Study) has not carried out an erosion assessment in the area. The development is approx. 15m from the edge of a stone pier and quay wall;
- A flood relief scheme was constructed at this location by the Roads Department a number of years ago. Operation of the flood scheme involves installation of temporary barriers prior to flood levels rising. There is a pumping station on the pier which is part of the flood relief scheme which pumps flood water from the river to the sea during periods of high tide;

- Report makes a number of points on the submitted flood risk assessment, summarised as follows:
    - There is a risk of tidal/coastal flooding. Regarding wind/wave overtopping the applicant has not adequately addressed this matter to make an informed decision. Report states the SSFRA submitted in response to further information concluded the impact of wave overtopping is negligible given there is a 0.035m variance in peak wave height. Report states that with the wave height overtopping the flood defence barrier this cannot be considered negligible;
    - There is a risk of tidal/coastal flooding if the temporary barriers are not installed prior to water levels rising which is not addressed in the SSFRA submitted in response to further information. Report refers to SSFRA Table 4 which states there is no pathway for tidal/coastal flooding with no consequence and with negligible risk; report states this is not a negligible risk, as, if the temporary barriers were not erected, the proposed property may flood during high tides;
    - The SSFRA submitted in response to further information states that (i) the residual risk with no mitigation measures rises from 'negligible' to 'moderate/high', and (ii) the residual risk of fluvial flooding increases from negligible to high without mitigation measures. Report states these are contradictory and require clarification;
    - Report states flood risk assessment is difficult without the above information.

3.2.3. Roads: Grant permission subject to conditions.

3.2.4. Water Services: None.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. Third Party Observations

3.4.1. During the application stage one observation was received by the Planning Authority. This was from Noel & Frances Maher of King's Bay House, The Quay, Arthurstown. The issues raised related to impact on neighbouring residential amenity; design and exposed nature of site; overdevelopment; flood risk; lack of details/inaccuracies; wall stability/dangerous structure notice; construction; footpaths; and parking.

4.0 Planning History

4.1. Subject site

4.1.1. Reg. Ref. 20240279: Permission for 2 no. dwellings refused by the Planning Authority in 2024. Permission was refused for 2 no. reasons. Reason 1 was on grounds of the submitted site specific flood risk assessment (SSFRA) lacking the minimum required information. Reason 2 was on grounds of design, form and finishes and the resultant impact on visual amenities on a visually prominent quayside village site.

4.1.2. Reg. Ref. 20230416: Planning permission for 2 no. dwellings refused by the Planning Authority in 2023. Permission was refused for 3 no. reasons. Reason 1 was on grounds of the submitted SSFRA Reason 2 was on grounds of the design, form and finishes and resultant visual impact. Reason 3 was on grounds of inadequate information in relation to foul and public water connection.

4.1.3. Reg. Ref. 20221443: Planning permission for 2 no. dwellings refused by the Planning Authority in 2023. Permission was refused for 5 no. reasons. The reasons related to (1) potential impact on Natura 2000 Sites; (2) flood risk; (3) visual impact; (4) water services, and; (5) traffic hazard.

4.1.4. I note earlier applications recorded (Reg. Refs. 20090069, 20080794, and 20060432 (ABP Ref. PL26.234235) all of which were also refused. I note that ABP Ref. PL26.234235 was refused by the Board on grounds of (1) impact on the River Nore and River Barrow SAC as a result of discharge of untreated effluent; (2) prematurity with reference to deficiency in sewerage facilities; and (3) overdevelopment.

4.2. **Nearby sites:**

4.2.1. None.

5.0 Policy Context

5.1. **National guidelines and strategies**

Sustainable Residential Development & Compact Settlements 2024 and Appendices

National Biodiversity Action Plan 2023, including its Objectives and Targets

Design Manual for Urban Roads & Streets (DMURS) 2019

Circular PL2/2014 'Flooding Guidelines'

Planning System Flood Risk Management Guidelines for Planning Authorities 2009

Quality Housing for Sustainable Communities Best Practice Guidelines for Delivery Homes Sustaining Communities 2007

5.2. **Development Plan**

Wexford County Development Plan 2022-2028

5.2.1. The site is not zoned in the Development Plan.

5.2.2. Volume 1

Core Strategy

5.2.3. Table 3-2 'County Wexford Settlement Hierarchy' (Arthurstown is 'Level 5 Small Villages Category 1'). Section 3.6.6 'Level 5 Small Villages' states:

"These villages have identifiable settlement structures, established populations and have potential to support a small quantum of additional growth, while protecting the character of the settlement. The wastewater services in most of these villages require investment and it is considered that their inclusion at this level in the hierarchy will provide a plan-led approach to securing this investment.

Development Approach

The development approach for these villages is to facilitate incremental growth in a sustainable manner. These villages will be consolidated by concentrating new

growth in the village centre. The planning authority will apply the sequential approach to the development of land, focusing on the development of lands within the existing footprint and closest to the village centre first. 'Leap-frogging' of undeveloped lands will not be considered. The Council will vary the Plan to include settlement boundary maps for these settlements within three years of the adoption of the County Development Plan or within one year of the adoption of the LAPs for Wexford Town, Enniscorthy Town and New Ross Town, whichever is the sooner.

The scale and density of future residential development in these settlements will be strictly controlled. New residential development will only be considered where it is appropriate in scale to the size and character of the village. Future development in these villages should ideally be based on the development of a number of well-integrated sites within and around the village centre. This is discussed further in Section 4.7.2.1 Density of Residential Developments in Chapter 4 Sustainable Housing.

New developments should contribute to the protection and enhancement of amenities, heritage, green infrastructure and biodiversity and recreation and open spaces."

Flood risk

5.2.4. Section 9.11 'Flood Risk and Surface Water Management'

5.2.5. Objective FRM01 *To carry out flood risk assessments when implementing the forward planning and development management functions of the Council for the purposes of regulating, restricting and controlling development in areas at risk of flooding, and to minimise the level of risk to people, business, infrastructure and the environment through the identification and management of existing and potential future flood risk.*

5.2.6. Objective FRM02 *To implement and comply fully with the recommendations of the Strategic Flood Risk Assessment prepared as part of the Wexford County Development Plan 2022-2028.*

5.2.7. Objective FRM04 *To ensure that climate change is fully embedded in future flood risk management in land use planning and flood risk management activities in the county, providing for effective climate change adaptation as set out in the County Wexford Climate Action Plan 2019-2025 and the OPW Climate Change Adaptation*

Plan for Flood Risk Management applicable at the time and in accordance with the County Strategic Flood Risk Assessment in Volume 11.

5.2.8. Objective FRM05 *To have regard to the flood risk assessments carried out for the settlements in Section 5 of the County Strategic Flood Risk Assessment and to have regard to the advice set out therein when preparing local area plans and assessing planning applications in those settlements.*

5.2.9. Objective FRM06 *To consider applications for minor developments such as change of use, extensions and infill development in accordance with the requirements of the Planning System and Flood Risk Management-Guidelines for Planning Authorities (DEHLG and OPW, 2009) and Circular PL2/2014, and any future update of these guidelines and the County Strategic Flood Risk Assessment in Volume 11.*

5.2.10. Objective FRM07 *To ensure that all future development proposals comply with the requirements of the Planning System and Flood Risk Management –Guidelines for Planning Authorities (DEHLG and OPW, 2009) and Circular PL2/2014, in particular through the application of the sequential approach and the Development Management Justification Test. In this regard, the Planning Authority will apply the precautionary principle and will screen all proposals for flood risk and will pay particular attention to lands within, along the edge or adjacent to Flood Zone A or B.*

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

5.2.12. Objective FRM09 *To ensure that compensatory storage is provided to balance floodplain loss as a result of raising ground levels within Flood Zone A or B. The storage should be provided within the flood cell and on a level for level basis up to the 1% level.*

Wastewater

5.2.13. Table 9-4 EPA Urban Wastewater Areas of Concern includes Arthurstwon on grounds of discharging untreated waste water to the environment.

Section 4.6 'Locations for Future Housing'

Section 4.7.2.1 'Density of Residential Developments', and Objective SH06 *To prioritise the provision of new housing in existing settlements and at an appropriate scale and density relative to the location in accordance with the National Planning Framework, the Regional Spatial and Economic Strategy for the Southern Region and the Core Strategy and the Settlement Strategy in the Plan*

Objective SH08 *To ensure that at least 30% of all new homes targeted to settlements are delivered within the existing built-up footprint of those settlements.*

Section 8.8 'Sightlines which Require Works'

Objective TS79 *Where works are required to achieve sightlines at a vehicular access, the following criteria must be complied with: • The necessary works to achieve the required sightlines must be indicated within the site edged red submitted with the planning application. • No construction of the dwelling shall take place until the sightlines are in place.*

Section 9.11 'Flood Risk and Surface Water Management'

Volume 2

Section 1.5.3 'Flood Risk Assessment'

Section 3.12 'Multi-Unit Residential Schemes in Towns and Villages' incl. Section 3.12.2 Dwelling House Design and table 3-4 Minimum Floor Area and Private Open Space for Dwellings

Section 6.2.6 'Siting and Design of Access/Egress Points'

Section 6.3 'Car Parking'

Section 8.2 ‘Water’ including Section 8.2.1 ‘Surface Water Management’

Section 8.3 ‘Wastewater’

Volume 7 Landscape Character Assessment

Volume 11 Strategic Flood Risk Assessment

5.3. Natural Heritage Designations

5.3.1. River Barrow and River Nore SAC is located approximately 15m to the north, and Hook Head SAC is located approximately 10.86km to the south.

6.0 Environmental Impact Assessment screening

6.1.1. The proposed development has been subject to preliminary examination for environment impact assessment (See Form 1 & 2 Appendix 1 of this report). Having regard to the characteristics and location of the development and the types and characteristics of potential impacts, I consider that there is no real likelihood of significant effects on the environment. The development, therefore, does not trigger requirement for EIA screening and an EIAR is not required.

7.0 The Appeal

7.1. Grounds of First-Party Appeal

7.1.1. A first-party appeal was received, prepared by the appellant’s engineer. It comprises an appeal statement and a ‘Site Specific Wave Over-Topping Report’ prepared by the appellant’s engineer. I summarise the main points as follows:

- Appeal considers the reason for refusal is unjustified and contends the SSFRA submitted with the application provides sufficient detail;
- Point 1: Erosion assessment is not relevant or necessary as the adjacent pier and flood defence wall are constructed predominantly of mass concrete and maintained by the relevant competent authority. Appeal states it would be prejudicial for this to be used as a refusal reason where coastal erosion impacts are not a measurable outcome;

- Point 2: The referenced temporary flood barriers and pumping station have successfully ensured that no flooding has occurred at the site. These measures when taken in conjunction with the increased floor levels of +0.9m above road levels for the proposed dwellings is justification for permission to be granted;
- Point 3: The appeal sets out a number of points in this regard:
    - The peak wave height in the ICPSS report is 35mm (0.035m) above the ITM level extracted from the survey of the flood defence wall;
    - Wexford County Council Roads Department are responsible for installing the temporary barriers in the event of rising tidal waters. Since implementation of the temporary barriers no flooding instances have occurred in the area. Appeal states it does not foresee a scenario where the barriers would not be used when high tides are predicted. Appeal contends that the risk of tidal flooding from the barriers not being erected is not relevant for the SSFRA;
    - The reference to negligible risk in the tidal flooding section of the SSFRA refers to the wave overtopping risk associated with the peak wave height of 35mm (0.035m) above the flood defence wall. Appeal states this is not considered a pathway and SSFRA Table 4 as referenced accurately reflects the appellant's prediction of risk;
    - The residual risk referenced for fluvial flooding is the amount of risk or danger associated with an action or event remaining after natural or inherent risk has been reduced by risk controls. Appeal states the reason Table 4 illustrates a raising from negligible to high residual risk is due to risks that cannot be controlled by the Appellant in mitigation measures that he can influence. Appeal states it does not believe SSFRA Table 4 is contradictory but is an accurate and unbiased assessment of residual risk that the appellant cannot influence.
- Conclusion: Appeal concludes the SSFRA does not lack key information, and that it relies on peer-reviewed coastal flood risk data for the area. The appellant has implemented mitigation in the proposed design. Implementation of flood risk mitigation by Wexford County Council with the installation of local flood defence walls is critical to ensuring risks of flooding or wave overtopping are negligible. This opinion is based on expert research referenced in the SSFRA.

7.1.2. I summarise the ‘Site Specific Wave Over-Topping Report’ as follows:

- Report was prepared in response to Item 1 of the Planning Authority request for further information. Report is to be read in conjunction with the SSFRA. Report includes extracts from the ‘Irish Coastal Waste & Water Level Modelling Study 2018’ which it states relates to the subject area;
- Report states the AEP value (Annual Exceedance Probability) of 0.1% simulates the OD Malin Head Sea Level at 3.15m while the Flood Defence Wall is at the OD Malin Head Height of 3.52m with Wind / Wave Component at OD Malin Head of 3.56m;
- Report includes a cross-section drawing showing the proposed finished floor level; top of wall height; current high-water level; extreme water level; and wind wave overtopping level. Report refers to the linear distance of the front of the proposed buildings and elevated floor level of +0.9m above road level to address any issues derived from wave over-topping;
- Report states the Irish Coastal Waste & Water Level Modelling Study 2018 is the seminal document relied upon as an accurate assessment of potential sea level changes and the interaction of extreme water levels with coastal impacts such as wave overtopping. Extracts are included and referenced;
- Report states the author deduces from the Study “*that the extreme water level based on AEP 0.1% that the high-water level is OD Malin 3.15m. Wind/wave interaction height is confirmed in the report at OD Malin 3.56m while the height of the flood defence wall is OD Malin 3.525m*”. Report concludes that consequently it is the author’s opinion that the impact of wave over-topping is negligible given there is a modest 0.035m variance in peak wave height vis-à-vis the flood defence wall height in the vicinity of the proposed development.

7.2. **Planning Authority Response**

7.2.1. None.

7.3. **Observations**

7.3.1. One Observation on the appeal was received from Noel & Frances Maher of King's Bay House, The Quay, Arthurstown. I note the following points:

- Site location: Site is immediately to the front of Observer's house;
- Decision: Observers consider the decision to refuse should be upheld;
- Amenity: The proposed overdevelopment of this congested site would have an extremely negative impact on their dwelling, and would create a precedent for other inappropriate development on adjacent sites. Observer states their dwelling is already deprived of sunlight, and that the development will further reduce the amenity of their dwelling;
- Design: Observer states the design, configuration and layout suggests the dwellings are intended for short term rental;
- Previous refusals: There are a number of previous refusals on the site. The Board previously refused permission for 3 no. dwellings on grounds of the site configuration, the size & location of development, overdevelopment, and injury to the amenities of the area and property in the vicinity. The combined footprint of the two houses proposed in this application exceeds that proposed under Reg. Ref. 20090069 by 30sqm and which was deemed to be overdevelopment;
- Flooding: The Coastal engineer was not satisfied that the question of wind and wave overtopping was adequately addressed. The Planner Report stated the purpose of flood defences is to protect existing properties and that it does not automatically release new land for development;
- Access: The car parking is inadequate. There is no on-street parking along this section of Quay Road. Observer disagrees with aspects of the Roads Engineer report and states that their entrance has been blocked by cars using the quay for fishing or the coastal trail, particularly when the flood defence barriers are in place. This means vehicles have to reverse up the road.

7.4. **Further Responses**

7.4.1. None.

8.0 **Assessment**

Having regard to the foregoing; having examined the application, appeal, Planning Authority reports, and all other documentation on file, including all of the submissions received in relation to the appeal; and having inspected the area within and around the site; and having regard to relevant local, regional and national policies, objectives and guidance, I consider the main issues in this appeal are those in the reason, specifically (i) flood risk, and (ii) related matters raised in the course of the appeal.

8.1. **Flood risk**

Assessment Summary

8.1.1. I would summarise the appellant's core point as being that despite the site being within Flood Zones A and B, that due to the adjacent flood defences, the area would only be affected by the 1-in-1,000-year flood event (which equates to Flood Zone C), and that accordingly the development as proposed in the context of existing and proposed mitigation, and the minor nature of residual impacts, should be permitted.

8.1.2. Having reviewed the submitted information in detail, I consider that having regard to the location of the site within defended Flood Zones A and B as identified in the Wexford County Development Plan 2022-2028; to the proximity of the site to the identified sources of flood risk; the dependence of existing flood defences on temporary barriers and the proximity of the site to same, that the information submitted has not clearly demonstrated that the existing and proposed mitigation would ensure an acceptable level of residual risk for the proposed dwellings, particularly on grounds of flood risk to the dwellings, means of safe access/egress, and potential displacement of flood waters and impacts on nearby properties.

8.1.3. Accordingly, and having regard to all of the information on the case file, and to the provisions of the Development Plan incorporating Strategic Flood Risk Assessment, I consider the appellant has not clearly demonstrated that the proposed dwellings would comply with, or that the development as proposed has had sufficient regard to, the provisions of the Wexford County Development Plan 2022-2028 including Objectives FRM01, FRM02, FRM05, FRM06, FRM07, FRM08 and FRM09. I

consider the development would, therefore, be contrary to the proper planning and sustainable development of the area on grounds of flood risk and should be refused.

8.1.4. In addition, in relation to the provisions of the Flood Risk Management Guidelines, I do not consider the proposed development has demonstrated appropriate regard to the provisions of the Guidelines in relation to the sequential approach to development, and does not satisfy all of the criteria of the Justification Test.

8.1.5. I respond below to the each of the substantive points raised in the appeal.

Reason for refusal

8.1.6. The application was refused essentially on grounds of it being located in Category A & B Flood Zones and that the submitted Site Specific Flood Risk Assessment (SSFRA) was deficient in detail and assessment. The refusal reason stated that in the absence of such detail and assessment, the development would likely be prejudicial to public health and would be contrary to Development Plan Section 1.5.3 and Objective FRM08. I have reviewed the grounds informing the decision as set out in the Planner and Coastal Engineer reports, and also the points and related technical information put forward by the appellant, as set out below.

Site context

8.1.7. Section 3.4 of the Flood Risk Management Guidelines states that areas benefitting from existing flood relief schemes or flood defences have a reduced probability of flooding but can be particularly vulnerable due to the speed of flooding when overtopping or a breach or other failure takes place. This is relevant in the subject case. I consider that in assessing the proposed residential development, the close proximity of the site to the identified sources of flood risk, and to the existing flood defences, and accordingly to the proximity of potential failure points, in particular the temporary barriers, should be borne in mind. This is on grounds of the immediacy of effect on the proposed dwellings arising from any such failure, as well as on the sole means of access/egress from the site along Strand Road.

8.1.8. In this regard, the site is in very close proximity (approx. 15m) to both the primary source of flood risk (King's Bay) and existing flood defences. Whilst the flood defence wall is permanent, the operation of the defences relies in part on the erection of temporary barriers across the Arthurstown pier access at times of heightened flood risk. The access to the Pier where these temporary barriers are

erected is also approximately 15m from the site, and is normally open/ungated. Both the permanent flood defence walls and the temporary barriers are indicated as measuring approximately 1m in height from the land side (+3.525 OD).

Flood Zones

8.1.9. Having reviewed the Development Plan Strategic Flood Risk Assessment including Map No. 1a 'Flood Zones' I am satisfied the site is almost entirely within Flood Zone A, with small areas at the rear/south of the site within Flood Zone B. As set out above the area is defenced by flood defences constructed by the Planning Authority. The Development Plan flood zones ignore the presence of flood defences adjacent the site. Section 3.4 of the Flood Risk Management Guidelines states that because this residual risk of flooding remains, the sequential approach and the Justification Test apply to defended locations such as the subject site.

Site-specific flood risk assessment

8.1.10. The application includes a SSFRA prepared by the applicant's engineer. The SSFRA incorporates a Justification Test, and considers possible flood risk sources including coastal, fluvial, pluvial, groundwater and human/mechanical errors. The application and appeal include additional technical assessment supporting the SSFRA. I have reviewed in detail the SSFRA and related technical information submitted as part of the application; the 'Wave-Overtopping Report' submitted in response to further information and as part of the appeal, and the appeal submission and accompanying information. I set out below a number of observations:

- The information submitted does not address the provisions of the Flood Risk Management Guidelines in relation to the sequential approach, which states that only if there are no reasonable sites available in zones of low flood probability should consideration be given to development in higher flood probability zones;
- The information submitted indicates the site is within a low probability zone (AEP 0.1% / 1-in-1,000-year event). I note that whilst this is the lowest probability zone, the SSFRA acknowledges that the area would be affected by flood events of this larger scale, but in this regard assumes the temporary barriers will be erected as intended. The information on file provides little commentary on how the site might be impacted by the 1-in-1,000 year event, and indeed by flood events of a lesser scale (for example the 50% AEP / 1-in-2-year flood event as

per Figure 3 ‘Extract on Water & Wave Levels from the Site-Specific Flood Risk Assessment 24-010 for Planning Permission 20241472’ of the submitted Site Specific Wave Over-Topping Report) if the temporary barriers were to fail partly or fully. In this regard, my review of the technical information submitted (incl. Figure 3 referenced above) appears to indicate that the site access and road outside the site may be susceptible to flooding even in the 50% AEP/1-in-2-year flood event if the temporary barriers were to fail;

- The SSFRA considers possible flood risk sources including coastal, fluvial, pluvial, groundwater and human/mechanical errors (eg. erection of the temporary barriers). It states there is an interaction between coastal and fluvial flood risk at the site whereby the passage of fluvial water may be impacted by tidal considerations. However, I am not satisfied the SSFRA fully considers the potential cumulative or combined interaction of other sources of flood risk, for example, high tidal levels, wind/wave overtopping and extreme pluvial events coinciding;
- The SSFRA goes on to state that whilst the Wexford County Development Plan flood extents map indicates the site is within a flood zone influenced by coastal impacts at King’s bay, that notwithstanding this extent area, the elevation of the site and risk designations set out in the report informed the report decision to determine that the site and entrance will not be subject to coastal flooding. The SSFRA sets out technical details in support of this position, and I note the application and appeal points regarding the proposed raised finished floor level and the operation of an overflow outlet and pumping station. However, I do not consider the submitted information clearly demonstrates the basis for this conclusion, and why the referenced and proposed mitigation sufficiently moderates flood risk for the proposed dwellings;
- I consider the information submitted provides little consideration of the policy context applying to the site. It sets out minimal consideration of Development Plan policies, provisions and Objectives in relation to flood risk, including those in the Strategic Flood Risk Assessment relating specifically to Arthurstown.

8.1.11. I note that sections of the submitted reports are not fully legible. The Commission may be inclined to request submissions from the appellant in this regard, however I do not consider this is necessary to make a decision on the case.

8.1.12. Below I consider these matters further in the context of the specific issues raised by the Planning Authority and appellant.

Temporary barriers

8.1.13. The Planning Authority Coastal Engineering report stated that operation of the flood defences involves installation of temporary barriers. The report stated there is a risk of tidal/coastal flooding if the temporary barriers are not installed prior to water levels rising; that this is not a negligible risk; and that this is not addressed in the SSFRA. The Coastal Engineering report highlights SSFRA Table 4 which states there is no pathway for tidal/coastal flooding on grounds of the barrier and permanent defences.

8.1.14. The appeal sets out information in response. It states the referenced temporary flood barriers and pumping station have successfully ensured that no flooding has occurred at the site, and that since implementation of the temporary barriers no flooding instances have occurred in the area. It also states Wexford County Council Roads Department are responsible for installing the temporary barriers in the event of rising tidal waters. It states that it does not foresee a scenario where the barriers would not be used when high tides are predicted. It contends that the risk of tidal flooding from the barriers not being erected is not relevant for the SSFRA. It states that these measures when taken in conjunction with the increased dwelling floor levels of +0.9m above road level is justification for permission to be granted.

8.1.15. Having reviewed the information on file it is clear both parties agree the operation of the flood defences adjacent the site relies on installation of temporary barriers prior to flood levels rising. The temporary barrier is erected across the vehicular access to the pier, approximately 15m from the site. Whilst the appeal addresses this matter, and highlights that Wexford County Council Roads Department are responsible for installing the temporary barriers, I also note the potential point of failure is in very close proximity to the site, which makes the impact of failure on the development almost immediate. I consider that such temporary defences are inherently less reliable relative to the permanent structures adjacent. Whilst the appeal states that it does not foresee a scenario where the barriers would not be used when high tides

are predicted and that as such there is no pathway for tidal/coastal flooding, I consider that details of procedures for deployment of the temporary barriers; the frequency they are typically required at; the potential for delays in deployment or other human error leading to partial or total barrier failure; and the potential impacts on the proposed development that may arise as a result of failure are warranted.

8.1.16. In this regard I note Section 2.25 of the Flood Risk Management Guidelines states that " *…areas protected by flood defences still carry a residual risk of flooding from overtopping or breach of defences and the fact that there may be no guarantee that the defences will be maintained in perpetuity. The likelihood and extent of this residual risk needs to be considered, together with the potential impact on proposed uses, at both development plan and development management stages, as well as in emergency planning and applying the other requirements of these Guidelines in chapter 3...*". The appellant provides minimal information as to the potential impact on the proposed dwellings in this regard.

8.1.17. Regarding site access/egress, I consider the submitted information indicates the above issues also apply to the proposed means of access/egress for the development. In this regard I reference section drawing No. 05A 'Site Cross Section' and Figure 3 'Extract on Water & Wave Levels from the Site-Specific Flood Risk Assessment 24-010 for Planning Permission 20241472' of the submitted Site Specific Wave Over-Topping Report. As set out above, the site is located generally at the end of Strand Road; Strand Road is single width at this point; and the road is the only vehicular access/egress route for the development. The submitted section drawing Drw. No. 05A shows the appellant utilises a current high-water level of +3.05m, and the referenced Figure 3 shows a mean sea level range of +2.16 to +3.02. The road level adjacent the site is shown as +2.389m. Whilst not clearly shown in the submitted information, having visited the site I am satisfied Strand Road is broadly speaking at the same level to the pier access. As such, I consider that the submitted information above indicates that should the temporary barriers fail, Strand Road and site access are liable to flooding even when sea levels are at the upper end of the stated mean range, and prior to the stated high-water level or extreme water level.

8.1.18. No commentary in this regard is provided by the appellant. I note the Planning Authority Roads Section report makes no comment in this regard and recommends

permission be granted. However, Section 5.9 of the Flood Risk Management Guidelines states that a site-specific flood risk assessment in general should include arrangements for safe access and egress. Box 5.1 of the Guidelines 'Justification Test for development management' states that the provisions for emergency services access must be satisfied. I consider the potential impact of a temporary barrier failure on what is the sole means of access / egress from the proposed dwellings has not been adequately addressed.

8.1.19. In addition in this regard, whilst the appeal discusses the potential impact of the 1-in-1,000-year event, there is minimal assessment of flood risk to the site during a lesser event (for example 1-in-50-year or even 1-in-2-year) as a result of temporary barrier failure. In this regard, Figure 3 'Extract on Water & Wave Levels from the Site-Specific Flood Risk Assessment 24-010 for Planning Permission 20241472' of the submitted Site Specific Wave Over-Topping Report appears to indicate that the road outside the site may be susceptible to flooding even in the 50% AEP/1-in-2-year flood event were the temporary barriers to fail. I consider this should be addressed given the considerably higher expected frequency of such smaller scale events and potential corresponding frequency of temporary barrier deployment.

Wind/wave overtopping

8.1.20. In addition to flood risk on grounds of potential failure of temporary flood barriers, the Planner Report stated the area adjacent the Bay is identified as an area potentially vulnerable to wave overtopping and that this was not adequately addressed in the application. The Planning Authority Coastal Engineer report stated the extent of wave overtopping cannot be considered negligible given the 0.035m variance between the flood defences and peak wave height, and that the applicant had not adequately addressed this matter.

8.1.21. The application and appeal include technical details in this regard, including the Site-Specific Wave Over-Topping Report. The appeal states the peak wave height (as per the referenced Irish Coastal Waste & Water Level Modelling Study (ICCPS) 2018' report) is 35mm (0.035m) above the ITM level of the flood defences. The Wave Over-Topping Report refers to the linear distance to the front of the proposed buildings and elevated floor level of +0.9m above road level as addressing any issues derived from wave over-topping. It states that based on the information

submitted in relation to the relative levels of the flood defences and the high-water level and wind/wave interaction height, that it is the author's opinion that the impact of wave over-topping is negligible given there is a modest 0.035m variance in peak wave height vis-à-vis the height of the flood defences in the vicinity of the proposed development.

8.1.22. Both parties concur that the stated peak wave height exceeds the top of the flood defences (permanent & temporary) by 0.035m (35mm). Having reviewed the information on file, I consider the substantive issues in this regard are: the likely impact of wind/wave and wave overtopping or related exceedance of the flood defences on the proposed development; whether this matter has been adequately addressed by the appellant; and the nature of resulting / residual impacts on the development. In this regard, the appellant's engineer states the impact of wave over-topping is modest/negligible, and the Planning Authority Coastal Engineer report states that it cannot be considered negligible.

8.1.23. Having reviewed the available information, overall, and considering the proximity of the site to the flood defences and primary source of flood risk, I do not consider the applicant has satisfactorily addressed this matter. I note the application and appeal points regarding the proposed raised finished floor level; the existing permanent and temporary defences; and the operation of an overflow outlet and pumping station. In the interests of completeness, I note the permanent flood defence wall includes wave return features along its top. The appellant however provides minimal information on:

- the potential volume and extent of flood waters that may arise as a result of overtopping, and the potential for waters to pond/pool behind the defences;
- the potential for displacement of flood waters behind the flood defences as a result of the proposed development and their impact on other properties;
- the potential impact should the overflow/pumping station fail, including for example if multiple flood risk sources occurred simultaneously (eg. overtopping and heavy rainfall), and the availability of secondary drainage routes.

8.1.24. I acknowledge in this regard the wind/wave overtopping levels discussed between the parties are those of the 1-in-1,000-year flood event, and as such, whilst the scale of such an event is greater, its likelihood/expected frequency is less. I accept the

appellant's points that no flooding has been recorded in the area since the flood defences have been installed; that no failure of the temporary barriers has been recorded; and that on-site mitigation is proposed. I also do not consider the stated variance in relation to the 1-in-1,000-year event (that is, 0.035m) is in itself grounds for refusal. However, given the tolerances involved in terms of measurement; the vulnerable nature of the proposed use; the proximity of the dwellings to the primary source of flood risk and the resulting immediacy of impact; and the potential impact on the primary route of egress, I am not satisfied the application and appeal have satisfactorily demonstrated the potential impacts arising for the development.

Finished floor levels

8.1.25. Regarding the proposed dwelling finished floor levels, the appeal states the existing flood defence mitigation measures, when taken in conjunction with the increased dwelling finished floor levels of +0.9m, is justification for permission to be granted. In terms of the level details, the proposed dwelling finished floor level (Drw. Ref. 05A 'Site Cross Section') is shown as +3.289m. The submitted Site Specific Wave Over-Topping Report (Figure 3) shows the appellant utilises a mean sea level range of +2.16m to +3.02m and high-water level range of +2.19m to +3.05m. The appellant indicates the floor level would exceed the stated current high-water level (+3.05m) and extreme water level (+3.15m, as per Drw. Ref. 05A 'Site Cross Section'). This indicates a free board excess of approximately 0.139m.

8.1.26. In this regard, the applicant utilises the 1-in-1,000-year flood level. The Flood Risk Management Guidelines state the minimum floor levels in new development should be set above the 1-in-200-year coastal flood level, including an allowance for climate change, with 'appropriate' freeboard. The submitted information (Figure 3 of the submitted Site Specific Wave Over-Topping Report) indicates a current high-water level range in the 1-in-200-year flood event of between +2.13m and +2.89m. This would indicate a freeboard level for the 1-in-200-year event of approximately 0.4m. As such, the submitted information indicates the proposed finished floor levels would exceed both the 1-in-200 and 1-in-1,000-year flood event water levels.

8.1.27. However, no rationale for the +0.9m finished floor level is provided, and the submitted information does not state whether an allowance for climate change is included. Whilst I acknowledge that no specific freeboard level is stated in the Flood

Risk Management Guidelines, I am not satisfied the proposed mitigation in the form of raised dwelling finished floor levels provides sufficient freeboard. I note the appellant states there is no flood path to the development on account of the permanent and temporary flood defences. However, as set out above I do not consider the submitted information clearly demonstrates why the proposed on-site mitigation is sufficient and appropriate, particularly in the context of the potential for temporary barrier failure and overtopping, and the corresponding lack of assessment from the appellant in this regard.

Surface water drainage

8.1.28. As reference above, the Coastal Engineer report states there is a pumping station on the pier which is part of the flood relief scheme and which pumps flood waters to the sea during periods of high tide. I note the application and appeal points regarding the presence of an overflow outlet. Whilst the overflow outlet and pumping station are pre-existing flood mitigation infrastructure, the application relies on their operation alongside the mitigation proposed as part of the development. Minimal details as to their operation are provided. The appellant also provides minimal information on, for example, the potential impact should the overflow or pumping station fail. I consider that further assessment in this regard is warranted given the proximity of the site to the potential points of failure.

8.1.29. I deal with surface water drainage from the proposed development below. In summary, the application indicates the development will drain to the public mains. The Planning Authority Planner Report noted that a connection to the public foul sewer is proposed. I am generally satisfied with the proposal in this regard.

Residual risk

8.1.30. The parties make various points regarding the characterisation of residual risk in the submitted reports. I consider these points below.

8.1.31. The Planner Report states the SSFRA indicates that (i) the residual risk with no mitigation measures rises from ‘negligible’ to ‘moderate/high’, and that (ii) the residual risk of fluvial flooding increases from negligible to high without mitigation measures. The report states these are contradictory and require clarification.

8.1.32. In response the appeal states it does not believe SSFRA Table 4 is contradictory but is an accurate and unbiased assessment of residual risk. The appeal concludes the

SSFRA does not lack key information; that it relies on peer-reviewed coastal flood risk data for the local area.

8.1.33. Having reviewed the information submitted, I am satisfied the application and appeal respond to the technical details raised by the Planning Authority. However, I consider that the substantive matter in this regard relates to residual flood risks remaining for the proposed development having regard to the existing and proposed mitigation. As set out above I am not satisfied the application and appeal have satisfactorily demonstrated that the residual risks are acceptable.

Erosion

8.1.34. The Planning Authority Environment (Coastal) report states the ICPSS has not carried out an erosion assessment in the area. I note the report states that the existing flood relief scheme was constructed at this location by the Roads Department a number of years ago, however no date is given. Based on publicly available information I estimate these works commenced in 2015. The appellant's engineer states that an erosion assessment is not relevant or necessary as the adjacent flood defence wall is constructed predominantly of mass concrete and maintained by the relevant competent authority. The appeal also states it would be prejudicial for this to be used as a refusal reason where coastal erosion impacts are not a measurable outcome.

8.1.35. Having visited the site and reviewed the available information, and noting the existing seawall and flood defences which are generally of recent and modern construction, I am satisfied the land adjacent the site is not at significant risk of erosion. In the absence of further information to the contrary, I am inclined to concur with the appellant in this regard, that an erosion assessment is not necessary.

Wexford County Development Plan & Strategic Flood Risk Assessment

8.1.36. As set out above I have had regard to the technical information submitted as part of the application and appeal, and to the Planning Authority assessment reports. These reports must however be considered in the context of the policy positions set out in the County Development Plan and accompanying Strategic Flood Risk Assessment.

8.1.37. In this regard I note the application and appeal documents do not address the provisions of Development Plan Policies and Objectives in relation to flood risk,

including those sections of the Development Plan Strategic Flood Risk Assessment relating specifically to Arthurstown.

8.1.38. Regarding the Development Plan Volume 1, I note in particular the provisions of Objectives FRM01, FRM02, FRM04, FRM05, FRM06, FRM07, FRM08 and FRM09 as set out above. Having regard to the provisions of these objectives, and have due regard to the information submitted with the application and appeal, I am not satisfied the development as proposed would:

- minimise the level of risk to people through the identification and management of existing and potential future flood risk (Objective FRM01);
- comply fully with the recommendations of the Strategic Flood Risk Assessment prepared as part of the Development Plan (Objective FRM02);
- ensure that climate change if fully embedded in future flood risk management activities (Objective FRM04);
- have due regard to the advice set out the flood risk assessments carried out for the settlements in Section 5 of the Development Plan SFRA (Obj. FRM05);
- comply with the requirements of the Planning System and Flood Risk Management –Guidelines for Planning Authorities (Objective FRM07);
- ensure compensatory storage is provided as a result of raising ground levels within Flood Zone A or B (Objective FRM09).

8.1.39. Regarding Development Plan Volume 11 'Strategic Flood Risk Assessment. Section 5.3 relates to Arthurstown and states the following:

- *"The analysis suggests that much of the low-lying existing development close to the estuary/King's Bay and a significant adjacent area is at high risk of flooding and is highly sensitive to climate change impacts due to sea level rise. No further inappropriate development should be considered within Flood Zone A/B and any re-development of existing property should consider the advice given in Section 4.7.1. Further development adjacent to the boundary of Flood Zones A/B should be submitted with an appropriately detailed FRA as set out in Section 4.5, and must consider climate change impacts. It is noted that the Flood Zone mapping is indicative and further detailed modelling under a Stage 3 FRA would improve*

the quality and reliability of the assessment." [I note Section 4.7.1 relates to minor developments, for example extensions and change of use.]

Accordingly, and noting the information submitted, I do not consider the application and appeal clearly demonstrated the proposed development is not inappropriate.

8.1.40. Regarding climate change, I note the SFRA Section 5.3 states in relation to Arthurstown that "*the lower part of the settlement that is impacted by tidal flooding would be highly sensitive to the impacts of climate change*." I also note the provisions in Development Plan (Objectives FRM04 and FRM08) and other provisions of the SFRA in relation to addressing climate change. I also note the provisions of the Flood Risk Management Guidelines in ensuring an allowance for climate change including in relation to freeboard levels. Having reviewed the submitted information, whilst I note that sea level variation is accounted for in the submitted information, I am not satisfied the effects of climate change more broadly on the development have been clearly and explicitly addressed.

Flood Risk Management Guidelines

8.1.41. I note the submitted SFRA addresses provisions of the Guidelines. However I am not satisfied the application and appeal documents satisfactorily address the provisions of the Guidelines in relation to the sequential approach, precautionary approach, justification test and exceptional circumstances, as follows:

- Sequential approach: The proposed dwellings are located predominantly in Flood Zone A. The sequential approach seeks to first and foremost direct development, particularly new development, toward land that is at low risk of flooding, and that only if there are no reasonable sites available in zones of low flood probability, should consideration be given to development in higher flood probability zones. A key principle of the approach is that development in these areas to be avoided, and if this is not possible, to consider substituting a land use that is less vulnerable to flooding. Only when both avoidance and substitution cannot take place should consideration be given to mitigation and management of risks. The application and appeal do not address this matter;
- Justification Test: The Guidelines state that inappropriate types of development that would create unacceptable risks from flooding should not be planned or permitted. The Guidelines however state that exceptions to the restriction of

development due to potential flood risks are provided for through the Justification Test, where the planning need and the sustainable management of flood risk to an acceptable level must be demonstrated. Whilst the application includes a Justification Test, I am not satisfied the development as proposed satisfies all of the criteria of the Justification Test as it applies to development management ('Box 5.1'). In this regard I am not satisfied it has been demonstrated that the development as proposed satisfies the following criteria:

  - Criteria 2(i): Given the proposed raised floor levels, that the development will not increase flood risk elsewhere;
  - Criteria 2(ii): Given the proposed access and design for the dwellings, that the development minimises risk to people and property;
  - Criteria 2(iii): Given the lack of details provided on existing and proposed mitigation, that the proposed mitigation measures ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures.

- Precautionary Principle: I note in this regard the Guidelines state that a precautionary approach should be applied, where necessary, to reflect uncertainties in flooding datasets and risk assessment techniques and the ability to predict the future climate and performance of existing flood defences. Given the location of the site, and the nature of development proposed, I consider that a precautionary approach is warranted, and I am not satisfied that such an approach is demonstrated by the appellant in this case;
- Exceptional Circumstances: Section 3.5 of the Guidelines states in relation to Zone A, which has a high probability of flooding, that: "*Most types of development would be considered inappropriate in this zone. Development in this zone should be avoided and/or only considered in exceptional circumstances, such as in city and town centres, or in the case of essential infrastructure that cannot be located elsewhere, and where the Justification Test has been applied. Only water-compatible development, such as docks and marinas, dockside activities that require a waterside location, amenity open space, outdoor sports and recreation, would be considered appropriate in this zone*." Having regard to the foregoing, and to the Justification Test submitted, I

am not satisfied the application and appeal have demonstrated that exceptional circumstances apply in this case.

8.1.42. Having regard to the information submitted, I am not satisfied the application has satisfactorily addresses the provisions of the Guidelines in these regards. Accordingly, I am not satisfied the information submitted complies with the provisions of Objective FRM09 of the Development Plan.

Principle of development

8.1.43. Regarding the principle of development, I have had regard to the policy basis for residential development on the subject site. I note again that no land use zonings are identified for Arthurstown in the Development Plan. Within the Development Plan Core Strategy Arthurstown is indicated as being on the 'Level 5 Small Villages Category 1' level in the Wexford County Settlement Hierarchy. The Development Plan Core Strategy states that:

- these villages have identifiable settlement structures and have potential to support a small quantum of additional growth;
- the development approach for these villages is to facilitate incremental growth in a sustainable manner;
- these villages will be consolidated by concentrating growth in the village centre;
- the planning authority will apply the sequential approach to the development of land, focusing on lands in the existing footprint and closest to the village centre first, and that 'leap-frogging' of undeveloped lands will not be considered;
- the Council will vary the Plan to include settlement boundary maps for these settlements within three years of the adoption of the County Development Plan;
- the scale & density of future residential development in these settlements will be strictly controlled, and new residential development will only be considered where it is appropriate in scale to the size and character of the village;
- Future development in these villages should be based on the development of a number of well-integrated sites within and around the village centre.

8.1.44. I have also had regard to the other relevant policies, provisions and objectives of the Development Plan in this regard. Based on the foregoing, I consider the

Development Plan and Core Strategy provide a policy basis for residential development in what is described variously as the identifiable settlement structure, village centre, existing footprint of Arthurstown. I note that no settlement boundary is defined for Arthurstown. I am satisfied that there is *in principle* sufficient policy basis for the development of the subject site for residential purposes. However, and having regard to the points above in relation to the sequential approach and Justification Test provisions of the Flood Risk Management Guidelines, and having regard to the location of the site, I am not satisfied that this policy basis is sufficiently robust for permission to be granted having regard to the flood risk concerns raised above.

Conclusion

8.1.45. I have reviewed the application and appeal information submitted, including the Site Specific Flood Risk Assessment; First Party Appeal Submission Report, Wave-Overtopping Report, and related appendices. I have also had regard to the Planning Authority reports on the file, and publicly available information referenced above. On balance I consider the application and appeal have not satisfactorily demonstrated the development would sufficiently minimise flood risk. Accordingly I consider the development would not comply with the related provisions of the Development Plan or have sufficient regard to the provisions of the Flood Risk Management Guidelines. My main considerations are summarised as follows:

- The site is located predominantly in defended Flood Zones A & B, and is in very close proximity to the identified primary flood risk source, existing permanent & temporary flood defences, and corresponding points of potential flood defence failure;
- Whilst the submitted information takes account of existing flood risk mitigation, I am not satisfied it sufficiently considers potential impacts on the development should existing flood risk mitigation fully/partly fail. I consider this is relevant given the proximity of the proposal to these mitigation and the primary identified sources of flood risk, and the resulting immediacy of potential impacts;
- I am not satisfied the submitted information clearly demonstrates that the proposed on-site mitigation is sufficient;
- Regarding overtopping, the maximum wave height exceeds the existing flood defences. Whilst I consider the exceedance extent is minor, the appellant has

not clearly demonstrated the potential impacts arising for the development in this regard, including potential ponding of overtopping waters behind the defences;

- The submitted information makes no reference to the potential displacement of flood waters as a result of the development;
- I am not satisfied the submitted information clearly considers the potential cumulative impact/compound effects of flood risk sources occurring together;
- Whilst the submitted information takes account of variable sea levels, I do not consider it clearly demonstrates the potential impacts of climate change;
- The submitted information has not demonstrated appropriate regard to the policies, objectives and provisions of the Development Plan, including Strategic Flood Risk Assessment, or to the provisions of the Flood Risk Management Guidelines, including sequential approach, Justification Test, precautionary approach, and exceptional circumstances.

8.1.46. Accordingly, given the risk of flooding in the area, and that the proposed development is vulnerable to flood risk, I am not satisfied the development as proposed is appropriate. I am not satisfied the appellant has satisfactorily demonstrated the existing and proposed mitigation would ensure residual risk flood can be managed to an acceptable level. I consider that a precautionary approach is warranted, and as such, I do not consider the appellant has clearly demonstrated the proposed development complies with the Development Plan in these regards.

8.2. Related matters raised in the course of the appeal

Previous reasons for refusal

8.2.1. The Planner Report stated the applicant failed to address refusal reason of the previous application on the site (Reg. Ref. 20240279). Refusal reason 1 in that case stated the submitted SSFRA lacking the minimum required information. The report from the Coastal Engineer in that case set out the grounds for refusal. Whilst I am satisfied that some of the previous ground for refusal have been resolved, I consider as set out above that a number of matters have not been satisfactorily addressed.

8.2.2. I note refusal reason 2 in that case related to design, form and finish and the resultant impact on visual amenities on a visually prominent quayside village site.

The subject proposal is reduced in height from two to one storey. Natural stone comprising reclaimed stone from the site is the proposed elevational treatment. Whilst this is generally as per the previous application, given the smaller scale of the buildings, I consider this is acceptable. In terms of visual impact, I consider the dwellings would sit well within both the elevated landscape to the rear, and below the residential access to the rear. Noting the prominent coastal location, and also the derelict nature of the existing site, and having regard to the Development Plan Landscape Character Assessment, I consider the proposal is acceptable in this regard.

Residential amenity

8.2.3. I note the Observer points regarding their current access to natural light, and the impact of the proposal on the amenity of their dwelling. I note the proposal is single storey whereas the previous proposal on the site was 2-storey. I have had due regard to the height and form of the proposed dwellings and their relationship to the dwelling adjacent. I have also had regard to the proposed height, form and density, as well as the open space and parking provision proposed and concerns regarding overdevelopment. Whilst I have some concern regarding the extent of private amenity space proposed (that is, approximately 47sqm between the two dwellings) I am satisfied that the Development Plan Section 3.12.2 Dwelling House Design provides for exceptions; in this regard I consider the site offers compensatory amenity in terms of location. On balance, I am satisfied that there would not be a significant detrimental impact on residential amenity of the neighbouring dwelling.

Dangerous Buildings / Wall stability

8.2.4. I note the Observer refers to a Dangerous Buildings notice and to wall stability on and adjacent the site. I note the derelict nature of the structures on site, and the level difference between the site and the adjacent dwelling, including retaining walls. No further assessment or evidence in this regard is submitted by the applicant or appellant. No comment in this regard is made by the Planning Authority. I see no evidence of same on the site. I am satisfied this is a civil and construction matter between the parties. I consider that should the Commission be inclined to grant permission that a condition relating to the management of construction should be attached.

Heritage

8.2.5. I note points made in the documents on file regarding the heritage of the area, including the Planning Authority Planner report reference to items of local heritage interest on the site. I have had regard to this item and see limited protection for this feature. I note the Development Plan reference to local interest. The site is not a Protected Structure or near Protected Structures, is not within an ACA, or an area of archaeological interest. I am satisfied the proposal is acceptable in this regard.

Wastewater

8.2.6. The application states the proposed development will connect to the public sewer. The submitted site layout plan indicates the point of wastewater connection agreed with the Planning Authority. The applicant submitted a Services Plan which states that a gravity based foul system is possible from the houses to the foul sewer pipe in the road. It refers to a copy of the Uisce Eireann Confirmation of Feasibility is submitted.

8.2.7. No report from the Planning Authority water services section is on file. The Planning Authority Planner Report noted that a connection to the public foul sewer is proposed, and that a feasibility letter from Irish Water was included. The submitted Confirmation of Feasibility from Irish Water is dated April 2023 and relates to a housing development of 2 no. units at Mersheen, Arthurstown. In relation to wastewater, it states that connection is feasible subject to upgrades. It states the Arthurstown WWPS has recently been constructed to the west of the site. It states that a level survey would be required to confirm gravity connection is possible, and that an extension will be required to this connection point in order to service the proposed development with the costs borne fully by the developer. I am generally satisfied with the proposal in this regard.

8.2.8. I note Development Plan Table 9-4 ‘EPA Uran Wastewater Areas of Concern’ identifies Arthurstown as discharging untreated wastewater to the environment. Development Plan Section 9.6.2 ‘Planned Public Wastewater Projects’ identifies the Duncannon WWTP (to include Arthurstown and Ballyhack) for the provision of the WWTP to protect environment and quality of receiving waters, increase capacity and facilitate future growth. The Development Plan states that completion was expected Q1 2023. Publicly available information from Uisce Eireann indicates Uisce Éireann

completed works to end the discharge of raw sewage from Arthurstown directly into the Barrow, Nore & Suir Estuary, which involved the construction of a new wastewater treatment plant in Arthurstown. In the interests of completeness I note that an older appeal dating from 2006 (ABP Ref. PL26.234235 / Reg. Ref. 20060432) was refused by the Board partly on grounds of impact on the River Nore and River Barrow SAC as a result of discharge of untreated effluent. As set out above I am satisfied this matter has now been resolved.

Surface water

8.2.9. The application states the development will connect to the mains surface water network. The 'Proposed Site Plan' drawing (Drw. No. Sheet 09) indicates surface water will discharge to the existing drainage network. The submitted Services Plan states that as the site comprises buildings and structures there will be no material impact on the quantity of surface water generated or discharged to the existing surface water network. The Services Plan states the SUDS features proposed comprise the harvesting of rainwater within the dwellings and for the installation of catchment gullies in the carports. No report from the Planning Authority Water Services section is on file. The Planning Authority Planner Report noted that a connection to the public foul sewer is proposed. I am generally satisfied with the proposal in this regard.

9.0 Appropriate Assessment screening

9.1.1. 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 any European Sites including the River Barrow and River Nore SAC and Hook Head SAC 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 of the proposed works and the location and distance from nearest European site and lack of connections

10.0 Water Framework Directive

10.1.1. The subject site is located in a rural village approximately 15m from King's Bay or Arthurstown Bay, which forms part of Waterford Harbour Estuary. The proposed development comprises 2 no. dwellings. No water deterioration concerns were raised in the observation or planning appeal. I have assessed the proposed project and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively, or otherwise jeopardise any water body in reaching its WFD objectives. The reason for this conclusion is as follows: the nature of works e.g. small scale and nature of the development], and the location-distance from nearest Water bodies and lack of hydrological connections. I conclude that on the basis of objective information, the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

11.1.1. I recommend permission be **Refused**, for the reasons and consideration below.

12.0 Reasons and Considerations

Having regard to the location of the site within Flood Zones A and B as indicated in the Wexford County Development Plan 2022-2028 Strategic Floor Risk Assessment, and having regard to the information submitted with the application and appeal, including 'Site Specific Flood Risk Assessment' and 'Site Specific Wave Over-Topping Report'; and having regard to the proximity of the site to King's Bay (Arthurstown Bay); it is considered that the appellant has not clearly demonstrated that the proposed development would sufficiently minimise flood risk, or would

comply with the provisions of the Wexford County Development Plan 2022-2028 including Objectives FRM01, FRM02, FRM05, FRM06, FRM07, FRM08 and FRM09 in relation to flood risk, and would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Dan Aspell
Inspector
27th August 2025

APPENDIX 1

Form 1: EIA Pre-Screening

Case Reference	ABP-322591-25
Proposed Development Summary	Permission for the erection of 2 no. fully serviced dwelling houses
Development Address	Mersheen, Ballyhack Ed, New Ross, Co. Wexford
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	☒ Yes, it is a 'Project'. Proceed to Q2.
	~~☐ 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)?	
~~☐ Yes, it is a Class specified in Part 1. **EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.**~~	
☒ 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?	
~~☐ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. **No Screening required.**~~	
~~☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. **EIA is Mandatory. No Screening Required.**~~	
☒ Yes, the proposed development is of a Class but is sub-threshold. **Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)**	Class 10(b)(i) Construction of more than 500 dwelling units.

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** ☐~~	~~**Screening Determination required (Complete Form 3)**~~
No ☒	**Pre-screening determination conclusion remains as above (Q1 to Q3)**

Inspector: _____ **Date:** __ 21st August 2025___

Form 2: EIA Preliminary Examination

Case Reference	ABP-322591-25
Proposed Development Summary	Permission for the erection of 2 no. fully serviced dwelling houses
Development Address	Mersheen, Ballyhack Ed, New Ross, Co. Wexford
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development	Proposed development comprises 2 no. dwellings in a rural village. The proposed development has a modest footprint, comes forward as a standalone project, requires minor demolition works, does not require the use of substantial natural resources, or give rise to production of significant waste, significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, human health.
Location of development	The development is located in a rural village on brownfield land. The receiving location is not particularly environmentally sensitive and is not hydrologically connected to sensitive natural habitats or designated sites. The site is not of significant historic and cultural significance, or is near Protected Structures, Sites of archaeological interest, and in an Architectural Conservation Area. I note the location of the site in a Coastal landscape setting, however given its position and size I do not consider it would have a significant impact on the surrounding landscape. Given the scale and nature of development and mitigation proposed there will be no significant environmental effects arising.
Types and characteristics of potential impacts	Having regard to the characteristics and modest nature of the proposed development, the sensitivity of 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.
Conclusion	
Likelihood of Significant Effects	**Conclusion in respect of EIA**
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ Date: _21st August 2025____

DP/ADP: _____ Date: _____

APPENDIX 2

Screening for Appropriate Assessment - Test for likely significant effects				
Step 1: Description of the project and local site characteristics				
Brief description of project	Permission for the erection of 2 no. fully serviced dwelling houses			
Brief description of development site characteristics and potential impact mechanisms	Site measures 0.0516ha and comprises derelict stones sheds, concrete walls and related structures. Site is approx. 0.015km south of River Barrow and River Nore SAC and approx.. 10.86km north of Hook Head SAC.			
Screening report	Yes			
Natura Impact Statement	No			
Relevant submissions	Planning Authority screening			
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	**Qualifying interests Link to conservation objectives (NPWS, date)**	**Distance from proposed development (km)**	**Ecological connection**	**Consider further in screening Y/N**
The submitted Appropriate Assessment screening report from SWC Promotions identifies a large number of European Sites within a 15km zone of influence. It concludes that no potential impacts arise due to the size and scale of the site and lack of hydrogeological connections. I identify the following Sites on grounds the source-pathway-receptor model. These European Sites were also considered and discounted in the submitted Appropriate Assessment screening report				
River Barrow and River Nore SAC (002162)	https://www.npws.ie/protected-sites/sac/002162	0.015km	No feasible connection.	No
Hook Head SAC (000764)	https://www.npws.ie/protected-sites/sac/000764	10.86km	No feasible connection.	No

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**
River Barrow and River Nore SAC (002162) 1016 Desmoulin's Whorl Snail Vertigo moulinsiana 1029 Freshwater Pearl Mussel Margaritifera margaritifera 1092 White-clawed Crayfish Austropotamobius pallipes 1095 Sea Lamprey Petromyzon marinus 1096 Brook Lamprey Lampetra planeri 1099 River Lamprey Lampetra fluviatilis 1103 Twaite Shad Alosa fallax fallax 1106 Salmon Salmo salar 1130 Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide 1170 Reefs 1310 Salicornia and other annuals colonising mud and sand 1330 Atlantic salt meadows (Glauco-Puccinellietalia maritimae)	No direct, indirect, ex situ or in combination impacts.	No significant effects likely.

1355 Otter Lutra lutra 1410 Mediterranean salt meadows (Juncetalia maritimi) 1421 Killarney Fern Trichomanes speciosum 3260 Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation 4030 European dry heaths 6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels 7220 Petrifying springs with tufa formation (Cratoneurion) 91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles 91E0 Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) The Conservation Objectives for the SPA are to maintain and restore the favourable conservation conditions of the identified Qualifying Interests. I consider the project would not compromise the more challengaing objective of restoration or make restoration more difficult.		
No	**Likelihood of significant effects from proposed development (alone): No**	
No	**If No, is there likelihood of significant effects occurring in combination with other plans or projects? No**	
No	**Possibility of significant effects (alone) in view of the conservation objectives of the site No**	
	Impacts	**Effects**
Hook Head SAC (000764) 1160 Large shallow inlets and bays 1170 Reefs 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts 1349 Common Bottlenose Dolphin Tursiops truncatus 1351 Harbour Porpoise Phocoena Phocoena The Conservation Objectives for the SPA are to maintain the favourable conservation conditions of the identified Qualifying Interests. I consider the project would not compromise the more challenging objective of restoration or make restoration more difficult.	No direct, indirect, ex situ or in combination impacts.	No significant effects likely.
No	**Likelihood of significant effects from proposed development (alone): No**	
No	**If No, is there likelihood of significant effects occurring in combination with other plans or projects? No**	

No	Possibility of significant effects (alone) in view of the conservation objectives of the site No
Step 4 Conclude if the proposed development could result in likely significant effects on a European site	
I conclude that the proposed development (alone) would not result in likely significant effects on European site(s) including the River Barrow and River Nore SAC and Hook Head SAC. The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project. No mitigation measures are required to come to these conclusions.	