AN BORD PLEANÁLA
LDG- 010335-18
ABP-
28 NOV 2018 OC
Fee: € 220.00 Type: CHEQUE
RES POST
Time: / By:

An Bord Pleanála

Planning Appeal Check List

(Please read notes overleaf before completing)

1. The appeal must be in writing (e.g. not made by electronic means).

2. State the

name of the appellant **(not care of agent)**	Michael Brennan
address of the appellant **(not care of agent)**	an Mullan Rua, Crosstown, Wexford

3. If an agent is involved, state the

name of the agent	Peter Thomson Planning Solutions
address of the agent	4 Priory Grove, Kells, County Kilkenny

4. State the Subject Matter of the Appeal* - **Referral**

Brief description of the development

Removal of trees and other vegetation from the site and infilling of the existing hole (understood to have been a former marl hole), with unknown infill material and top soiling of the filled hole. Also carrying out works to allow water held in the hole to discharge to the existing natural drainage network at Crosstown, Ardcavan, County Wexford

Planning Appeal Check List

(Please read notes overleaf before completing)

1. The appeal must be in writing (e.g. not made by electronic means).

2. State the

name of the appellant (not care of agent)	Michael Brennan
address of the appellant (not care of agent)	c/o Mullins Rd, Crossbown, Wexford

3. If an agent is involved, state the

name of the agent	Peter Thomson Planning Solutions
address of the agent	4 Priory Grove, Kells, County Kilkenny

4. State the Subject Matter of the Appeal* - Referral

Brief description of the development

Removal of trees and other vegetation from the site and infilling of the existing hole (understood to have been a former marl hole), with unknown infill material and top soiling of the filled hole. Also carrying out works to allow water held in the hole to discharge to the existing natural drainage network at Crossbown, Ardcavan, County Wexford

Location of the development

Crosstown, Ardcavan, Co Wexford.

Name of planning authority

Wexford County Council

Planning authority register reference number

EXD00729

* Alternatively, enclose a copy of the decision of the planning authority as the statement of the Subject Matter of the Appeal.

5. Attach, in full, the grounds of appeal and the reasons, considerations and arguments on which they are based.
6. Attach the acknowledgement by the planning authority of receipt of your submission or observations to that authority in respect of the planning application, the subject of this appeal. (Not applicable where the appellant is the applicant).
7. Enclose / Pay the correct fee for the appeal and, if requesting an oral hearing of same, the fee for that request see "Guide to Fees Payable" under heading of Making an Appeal on Home Page of this website for current fees.
8. Ensure that the appeal is received by the Board in the **correct manner** and **in time**.

AN BORD PLEANÁLA

28 NOV 2018

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

Location of the development

Castlown, Castletown, Co. Wexford.

Name of planning authority

Wexford County Council

Planning authority register reference number

EXD0729

* Alternatively, enclose a copy of the decision of the planning authority as the statement of the Subject Matter of the Appeal

5. Attach, in full, the grounds of appeal and the reasons, considerations and arguments on which they are based.

6. Attach the acknowledgement by the planning authority of receipt of your submission or observations to that authority in respect of the planning application, the subject of this appeal. (Not applicable where the appellant is the applicant).

7. Enclose / Pay the correct fee for the appeal and, if requesting an oral hearing of same, the fee for that request see "Guide to Fees Payable" under heading of Making an Appeal on Home Page of this website for current fees.

8. Ensure that the appeal is received by the Board in the correct manner and in time.

Peter Thomson
Planning Solutions

The Secretary,
An Bord Pleanala,
64 Marlborough Street,
Dublin 1.

27 November 2018

Re: Referral of application made to Wexford County Council for a Declaration under the provisions of Section 5 of the Planning and Development Act 2000 to 2018.

Removal of trees and other vegetation from the site and infilling of the existing hole (understood to have been a former marl hole), with unknown infill material and top soiling of the filled hole. Also carrying out works to allow water held in the hole to discharge to the existing natural drainage network at Crosstown, Ardcavan, County Wexford.

Wexford County Council Declaration ref: EXD00729

Dear Sir/ Madam,

I act on behalf of Michael Brennan Mullan Rua, Crosstown, Wexford - Eircode: Y35KW13, who lives adjacent to the site and works which were the subject of a request for a Section 5 Declaration from Wexford County Council.

The application for a Declaration was made on behalf of my client following works carried out which my client believes were works pursuent to a proposed housing development which is currently before the Board for consideration (ABP ref: 302310-18).

It is requested that this Referral be considered in conjuction with the current planning appeal.

Planning Authority Declaration

The planning authority determined as follows:

1. That the removal of the trees and other vegitation from the site was Exempted Development.

   The reasons for declaring these works to be exempted development are not given at the end of the schedule.

2. That infilling of the existing hole (understood to have been a former marl hole), with unknown infill material and top soiling of the filled hole. Also

Thomson Planning Consultant Limited T/A Peter Thomson Planning Solutions
Company Registration No. 603096 VAT Registration No. IE 3469921SH
Address: 4 Priory Grove, Kells, County Kilkenny
Tel: 056 7728923 or 086 819 6856 email: ptplanningsolutions@eircom.net

Peter Thomson
Planning Consultant

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

27 November 2018

Re: Referral of application made to Wexford County Council for a Declaration under the provisions of Section 5 of the Planning and Development Act 2000 to 2018.

Removal of trees and other vegetation from the site and infilling of the existing hole (understood to have been a former marl hole), with unknown infill material and top soiling of the filled hole. Also carrying out works to allow water held in the hole to discharge to the existing natural drainage network at Crosstown, Ardcavan, County Wexford.

Wexford County Council Declaration ref: EXD00727

Dear Sir/ Madam

I act on behalf of Michael Brennan Mullan Rua, Crosstown, Wexford - Eircode: Y35KW73, who lives adjacent to the site and works which were the subject of a request for a Section 5 Declaration from Wexford County Council.

The application for a Declaration was made on behalf of my client following works carried out which my client believes were works pursuant to a proposed housing development which is currently before the Board for consideration (ABP ref: 302310-18).

It is requested that this Referral be considered in conjuction with the current planning appeal.

Planning Authority Declaration

The planning authority determined as follows:

1. That the removal of the trees and other vegitation from the site was Exempted Development.

   The reasons to declaring these works to be exempted development are not given at the end of the schedule.

2. That infilling of the existing hole (understood to have been a former marl hole), with unknown infill material and top soiling of the filled hole. Also

Thomson Planning Consultants Limited T/A Peter Thomson Planning Solutions
Company Registration No. 503096 VAT Registration No. IE 3709234H
Ballycross, Ballyhogue, Gorey, Co. Wexford, County Kilkenny
Tel: 056 7729923 or 086 8129685 email: tplanningsolutions@eircom.net

carrying out works to allow water held in hole to discharge to the existing natural drainage network were not Exempted Development.

The reasons given for declaring these works not to be exempted development are detailed at the end of the schedule.

Referral

It is considered the works involving the removal of the trees and other vegitation from the site was part of the works involving the infilling the former marl hole and not a separate act of develpment. It is considered therefore that the removal of the trees and vegitation was part of the overall infilling works and therefore not exempted development. Section 4(1)(i), given as the justification for the tree and vegitation removal being exempted in the planners report, is considered to be flawed. Section 4(1)(i) is clearly exemption for commercial forestry and woodland developments.

In the planners report there is reference to Screening for Appropriate Assessment having been submitted with the Section 5 application. No such screening report was submitted with the application.

No planning authority Appropriate Assessment Screening report was attached to the planners report associated with the Section 5 Declaration(there was an EIA Screening report).

It is considered the planning authority may have been referring to the Appropriare Assessment screening associated with the planning application currently under appeal. I enclose a copy of the Appropriate Assessment Screening Report associated with that application which is incomplete and not signed or dated. I also enclose a copy of the recommendation of the Senior Executive Scientist in respect of that application which confirms mitigation measures are proposed by the applicant to avoid impacts on the EU habitat sites. The fact mitigation works are required prevents the planning authority screening out Appropriate Assessment.

The justification in the planners Section 5 report for not requiring Appropriate Assessment is the distance between the works carried and the EU designated sites; notwithstanding the acknowledgement the two are hydrologically linked.

It is considered impacts on the EU designated sites cannot be ruled out, that the planning authority was incorrect in its determiniation based on its view that impacts would in fact occur if deleterious material was to enter the EU designated sites and absence of any scientific evidence to confirm this could not occur. The fact the planning authority does not know what type of material was used to fill the hole is a further serious threat to the EU designated sites.

Following, it works to allow vegetation to grow in order to stabilize natural drainage patterns. Were the EU Exempted Development

The reasons given for excluding these works not to be exempted development are detailed at Item 4 of the email.

Retention

It is considered the works involving the removal of the trees and other vegetation from the site was part of the works involving the filling the natural hole and not a separate act of development. It is considered therefore that the removal of the trees and vegetation was part of the overall infilling work and therefore not exempted development. Section 4(1)(g) gives as the justification for the tree and vegetation removal being exempted in the planners report, it considered to be flowed. Section 4(1)(h) is clearly exemption for commercial forestry and woodland development.

In the planners report there is reference to Screening for Appropriate Assessment having been submitted with the Section 5 application. No such screening report was submitted with the application.

The planning authority Appropriate Assessment Screening report was attached to the planners report associated with the Section 5 Declaration(there was no EIA Screening report).

It is considered the planning authority may have been referring to the Appropriate Assessment screening associated with the planning application currently under appeal. I enclose a copy of the Appropriate Assessment Screening Report associated with that application which is incomplete and not signed or dated. I also enclose a copy of the recommendation of the Senior Executive Scientist in respect of that application which confirms mitigation measures are proposed by the applicant to avoid impact on the EU habitat sites. The fact mitigation works are required prevents the planning authority screening out Appropriate Assessment.

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It is considered impacts on the EU designated sites cannot be ruled out. That the planning authority was incorrect in its determination based on its view that impacts would in fact occur if deleterious material was to enter the EU designated sites and absence of any scientific evidence to confirm this would not occur. The fact the planning authority does not know what type of material was used to fill the hole is a further reason why impacts on the designated sites.

I enclose a copy of the Section 5 application made to the planning authority, its declaration, the planners report, the afore mentioned AA Screening Report and the Senior Environmental Scientists report associated with application 2018/0713 (ABP ref: 302310-18).

I also enclose the appropriate fee of €220 for making this referral.

Yours faithfully,

Peter Thomson, MSc, MIPI

AN BORD PLEANÁLA

28 NOV 2018

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

Form No. 2

Wexford County Council

MASTER FILE
20180713

20180713
Article 22

Appropriate Assessment Screening Report	
Planning File Ref	20180713
Applicant Name	H & R CHARTERED HOMES LTD.
Development Location	CROSSTOWN, ARDCAVAN
Site size	3.30
Application accompanied by an EIS	No
Application accompanied by NIS	Yes

Is the development a small extension/alteration to existing building not within an SAC/SPA or not v 250m of an SAC/SPA with no likely discharge of pollutants, nutrients or surface water of a signific nature within catchments of an SAC/ SPA as part of either its construction or operational phase. I answer to the above question is;

(a) yes, then significant impacts on Natura 2000 sites can be ruled out. Proceed to complete Directive Screening Conclusion Statement – Determination'.

(a) no or not sure, then proceed with this Screening Report.

Step 1: Management of Natura 2000 sites

Is the project directly connected with or necessary to the management of a Natura 2000

Step 2: Description of the project

2.1 Brief Description of the project or plan.

PERMISSION FOR CONSTRUCTION OF 24 NO. FULLY SERVICED DWELLING HOUSES ALL ASSOCIATED AND ANCILLARY SITE DEVELOPMENT WORKS. A NATURA IMPAC STATEMENT WILL BE SUBMITTED TO THE PLANNING AUTHORITY WITH THE PLANN APPLICATION AND THE NATURA IMPACT STATEMENT WILL BE AVAILABLE FOR INS PURCHASE AT A FEE NOT EXCEEDING THE REASONABLE COST OF MAKING A CO OFFICE HOURS AT THE OFFICE OF THE PLANNING AUTHORITY

2.2 Brief Description of the Natura 2000 sites (generally within 15km)

AC - Carnsore Point

C - Long Bank

C - Raven Point Nature Reserve

- Screen Hills

- Slaney River Valley

AN BORD PLEANÁLA

2 8 NOV 2018

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

Habitats Directive Screening Conclusion Statement - Determination

Planning File Ref	20180713
Proposed Development:	PERMISSION FOR CONSTRUCTION OF 24 NO. FULLY SERVICED DWELLING HOUSES INCLUDING ALL ASSOCIATED AND ANCILLARY SITE DEVELOPMENT WORKS. A NATURA IMPACT STATEMENT WILL BE SUBMITTED TO THE PLANNING AUTHORITY WITH THE PLANNING APPLICATION AND THE NATURA IMPACT STATEMENT WILL BE AVAILABLE FOR INSPECTION OR PURCHASE AT A FEE NOT EXCEEDING THE REASONABLE COST OF MAKING A COPY DURING OFFICE HOURS AT THE OFFICE OF THE PLANNING AUTHORITY
Development Location:	CROSSTOWN, ARDCAVAN
Natura 2000 sites within impact zone	SPA - Wexford Harbour And Slobs SPA , SPA - The Raven SPA Within 15km SAC - Slaney River Valley, Within 15km SAC - Raven Point Nature Reserve, Within 15km SAC - Carnsore Point, Within 15km SAC - Screen Hills, Within 15km SAC - Long Bank

Description of the project

PERMISSION FOR CONSTRUCTION OF 24 NO. FULLY SERVICED DWELLING HOUSES INCLUDING ALL ASSOCIATED AND ANCILLARY SITE DEVELOPMENT WORKS. A NATURA IMPACT STATEMENT WILL BE SUBMITTED TO THE PLANNING AUTHORITY WITH THE PLANNING APPLICATION AND THE NATURA IMPACT STATEMENT WILL BE AVAILABLE FOR INSPECTION OR PURCHASE AT A FEE NOT EXCEEDING THE REASONABLE COST OF MAKING A COPY DURING OFFICE HOURS AT THE OFFICE OF THE PLANNING AUTHORITY

Describe how the project or plan (alone or in combination) could affect Natura 2000 site(s).

Having regard to the limited extent of the proposed works and the substantial distance to the nearest Natura 2000 sites no element of the proposed project alone or in combination is likely to give rise to any impacts on the Natura 2000 sites.

If there are potential impacts, explain whether you consider if these are likely to be significant.
None
Conclusion of assessment
Having regard to the precautionary principle, it is considered that
Significant impacts can be ruled out and stage 2 AA is not required
Documentation reviewed for making of this statement.
Site Synopsis
Conservation Objectives
Completed By
Date
Note: Determination must be made available for inspection by the public

ord

RECOMMENDATION OF SENIOR EXECUTIVE SCIENTIST (ENVIRONMENT)

ATTENTION: Brendan Cooney.

Planning No: 20180713

Applicant: H & R CHARTERED HOMES LTD.

SCANNED

Application Date: 28-May-2018

Application Type: PERMISSION

Location: CROSSTOWN, ARDCAVAN

District: Wexford Borough Municipal District

Proposal: PERMISSION FOR CONSTRUCTION OF 24 NO. FULLY SERVICED DWELLING HOUSES INCLUDING ALL ASSOCIATED AND ANCILLARY SITE DEVELOPMENT WORKS. A NATURA IMPACT STATEMENT WILL BE SUBMITTED TO THE PLANNING AUTHORITY WITH THE PLANNING APPLICATION AND THE NATURA IMPACT STATEMENT WILL BE AVAILABLE FOR INSPECTION OR PURCHASE AT A FEE NOT EXCEEDING THE REASONABLE COST OF MAKING A COPY DURING OFFICE HOURS AT THE OFFICE OF THE PLANNING AUTHORITY

Is the correct site notice present and legible: ☑ Yes ☐ No Date Site Visited 5/7/18

Please return this file to the Planning Department by ___/___/___

Comments:

Page 1 of 3
P.T.O

AN BORD PLEANÁLA
28 NOV 2018
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

WEXFORD COUNTY COUNCIL
RECEIVED
11 JUL 2018
PLANNING SECTION

ed: _____ Date: ___/___/___

orised By: _____ Date: 10/7/18

Page 2 of 3

MEMO: PLANNING SECTION

PLANNING APPLICATION: 20180713

APPLICANT: H & R Chartered Homes Ltd

RECOMMENDATION: Grant with conditions

With regard to the above application the following points are noted:

1. The application is for 24 no. fully serviced dwelling houses including all associated site development works.
2. The development will connect to the public mains and public sewer. Correspondence from Irish Water with regard to such connections has been submitted.
3. There are hydrogeological pathways from the site to the Slaney Valley SAC and Wexford Harbour and Slobs SPA. A Natura Impact Statement has been submitted.
4. The Natura Impact Statement includes a number of mitigating measures to be implemented during the construction and operational phase of the development, including management of chemical substances including fuel; surface water management; measures to avoid the spread of invasive species; storage and covering of all spoil on site; and dust suppression measures.
5. The applicant states that portable (chemical) toilets will be used on site during the construction phase.
6. The applicant proposes to discharge surface water from the development to a nearby watercourse on the site's western boundary. Surface water will pass through an oil/silt bypass separator, enter a surface water attenuation pond, and then be discharged to the watercourse at a green field run-off rate. The relevant calculations have been submitted. Manufacturer's specifications for the oil/silt bypass separator have been submitted.
7. There are a number of dwelling houses in close proximity to the site which may be affected by dust and noise during the construction phase of the development.

It is therefore recommended that permission be granted subject to the following conditions:

1. EFF04
2. EFF05
3. EFF06
4. NSE01Noise emanating from the development shall not cause to be measured at the facing elevation (outside) of any dwelling in the area, during the hours 0700 – 2100 a noise level of 55 dB(A) (L

during the hours 2100 – 0700 and Sundays and Bank Holidays a noise level of 42 dB(A) (Laeq 1 hour). The noise is also not to be impulsive in nature or have any tonal element which is 5 dB(A) above the adjacent frequencies.

5. POL01 Dust emission or total particulate release to the airborne environment shall not exceed 350mg/m2 per day. Dust measurements shall be carried out, in real time, by direct reading airborne particle measuring equipment, capable of measuring for different dust particle sizes simultaneously, to include at a minimum Total Suspended Particles (TSP), and Particulate Matter <10 um (PM_{10}) fractions. This equipment is to have the English EA MCERTS certification or equivalent, which ensures reliable and accurate recording of PM_{10} data.
6. The mitigation measures outlined in section 9 of the Natura Impact Statement submitted with the application shall be implemented during the construction and operational phases of the development.

Note to Planner: Connect to public mains.

Signed _____ Date 6/7/2018.

Authorised _____ Date 10.7.18

APPLICATION FOR DECLARATION OF EXEMPTED DEVELOPMENT SECTION 5 – PLANNING & DEVELOPMENT ACT 2000 (as amended)

AN BORD PLEANÁLA
28 NOV 2018
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

Name and address of applicant(s) Michael Brennan
Mullan Rua, Crosstown, Wexford
Eircode:_Y35KW13

If applicant is a company – n/a
Names of Company Directors_____

Registered address of company_____

Companies office registration number _____

Name and address of person acting on behalf of applicant Peter Thomson, Peter Thomson Planning Solutions
4 Priory Grove, Kells, County Kilkenny

Eircode:_R95VY05

Location townland and postal address of land or structure concerned Crosstown, Ardcavan, Co Wexford

(Please attach site location map)

Nature and extent of development Removal of trees and other vegetation from the site and infilling of the existing hole (understood to have been a former marl hole), with unknown infill material and top soiling of the filled hole. Also carrying out works to allow water held in the hole to discharge to the existing natural drainage network.

(Please attach drawings in detail to support application)

Section of Exempted Development Regulations under which exemption is claimed: _____
It is considered there is no Section in the Regulations which allows for the works which were carried out. I would also highlight that the release of the water from the hole into the natural drainage network released the discharge into the hydrological pathway to the SAC/SPA which, given the unknown condition of the discharge, may have had adverse impacts on the conservation status of the SAC/SPA. A Stage 2 NIS should have been carried out for any works involving the infilling of the site. Such an NIS would have been required to accompany an application for planning permission for the infilling of the hole. An extract from a report prepared on behalf the developer understood to be responsible for the infilling of the hole, which was submitted in connection with an appeal against the development of the site, is attached. This confirms the route of the discharge to the SAC/ SPA. No exemption can be claimed for any development which would have been required to be the subject of a Stage 2 NIS.

SIGNED_ Peter Thomson **DATE 12 October 2018**

Fee of €80.00 to accompany application

Version September 2017

APPLICATION FOR DECLARATION FOR EXEMPTED DEVELOPMENT
SECTION 5 – PLANNING & DEVELOPMENT ACT 2000 (as amended)

Name and address of applicant(s) Micheal Brennan
Mullion Rue, Clonsilla, Wexford
Eircode: Y35KW13

If applicant is a company – n/a
Names of Company Directors _____

Registered address of company _____

Companies office registration number _____

Name and address of person acting on behalf of applicant Peter Thomson, Peter Thomson Planning Solutions
4 Priory Grove, Kells, County Kilkenny

Eircode: R95 VY05

Location townland and postal address of land or structure concerned Crosstown, Arrigaven, Co. Wexford

(Please attach site location map)

Nature and extent of development Removal of trees and other vegetation from the site and infilling of the existing hole (understood to have been a former marl hole), with unknown infill material and top soiling of the filled hole. Also carrying out works to allow water held in the hole to discharge to the existing natural drainage network

(Please attach drawings in detail to support application)

Section of Exempted Development Regulations under which exemption is claimed: _____

It is considered there is no Section in the Regulations which allows for the works which were carried out. I would also highlight that the release of the water from the hole into the natural drainage network released the discharge into the hydrological pathway to the SAC/SPA which, given the unknown condition of the discharge, may have had adverse impacts on the conservation status of the SAC/SPA. A Stage 2 NIS should have been carried out for any works involving the infilling of the site. Such an NIS would have been required to accompany an application for planning permission for the infilling of the hole. An extract from a report prepared on behalf the developer understood to be responsible for the infilling of the hole, which was submitted in connection with an appeal against the development of the site, is attached. This confirms the route of the discharge to the SAC/SPA. No exemption can be claimed for any development which would have been required to be the subject of a Stage 2 NIS.

SIGNED _____ DATE 12 October 2018

Fee of €80.00 to accompany application

SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 (as amended)

Additional personal information (not for public viewing):

Telephone No. & E-Mail Address (if any) of Applicant:

n/a

Telephone No. & E-Mail Address of Applicant's Agent (if any): 086 819 6856

ptplanningsolutions@eircom.net

AN BORD PLEANÁLA

28 NOV 2018

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

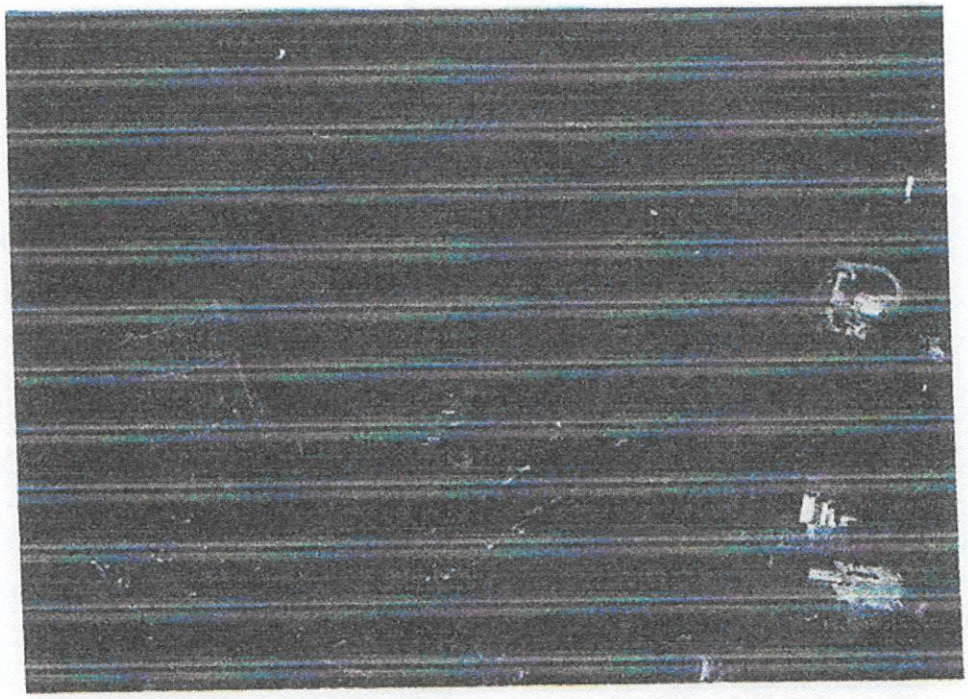
EXTRACT

PROPOSED DEVELOPMENT SITE

CROSSTOWN, CO WEXFORD

SITE SPECIFIC FLOOD RISK ASSESSMENT

PLANNING REFERENCE 20180713



IE CONSULTING
WATER-ENVIRONMENTAL-CIVIL

Integrated Engineering Consulting

IE CONSULTING
WATER-ENVIRONMENTAL-CIVIL

PROPOSED DEVELOPMENT SITE

CROSSTOWN, CO WEXFORD

SITE SPECIFIC FLOOD RISK ASSESSMENT

PLANNING REFERENCE 20180713

IE Consulting - Carlow Office

Innovation Centre
Green Road
Carlow

Tel: 059 91 33084
Fax: 059 91 40499
Email: info@iece.ie
Web: www.iece.ie

IE Consulting - Newry Office

1 RDC House
WIN Business Park
Newry
Co Down
BT35 6PH

Tel: 028 3025 7974
Email: info@iece.ie
Web: www.iece.ie

Client :-
Darragh Ryan Consulting Engineers
Clearestown
Co Wexford

Document No:	IE1718-2881
Issue No:	03-ISSUE
Project No:	IE1718
Date:	10th September 2018
Revision:	4.0
Prepared By:	N O'Malley BEng(Hons) MIEI
Checked By:	P McShane BEng(Hons) MIEI

7 Discussion

The screening assessment indicates that there is no indicative, predictive, historical or anecdotal flood risk to the proposed development site.

7.1 *Hydrological Impact of the Proposed Development*

There is no potential flood risk from the construction of the proposed development site to the surrounding lands. The surface water management plan proposed incorporates Sustainable Urban Drainage System (SuDS) proposals to limit the surface water discharge from the site in accordance with the GDSDS.

A surface water attenuation system has been designed for no flooding up to the 1 in 100 year rainfall event including 10% climate change. It is proposed to limit the discharge from the site to 5.05 l/s using a flow control device. The maximum allowable discharge stipulated by Wexford County Council is 4 l/s per hectare, which would be a discharge rate of 13.2 l/s. The GDSDS stipulates that the allowable discharge rate shall be equal to 1 year greenfield runoff rate for the site or 2l/s/ha, whichever is greater. The greenfield runoff for the site is 21.2l/s, which is shown in *Appendix C*.

The discharge from the site is significantly lower than the minimum allowable discharge. The proposed surface water management system shall not result in an increased flood risk to downstream lands and shall not result in any displacement of flood waters.

7.2 *Appeal Submission on behalf of Mr Michael Brennan – Point 3*

The GSI information for the areas does not indicate that there is marl present in the vicinity of the site. The geotechnical report included in *Appendix B* includes information of a number of trial pits and boreholes on the local access road at the entrance to the site, which indicates the underlying soil consist of Top Soil, Sand, Made Ground and Clay. This referred to 'hole' is more likely to be a historical sand or gravel pit.

The 'hole' is located at an upland location at an approximately elevation of 12.0 to 12.50m OD a shown on *Figure 10* below. The contours shown on *Figure 13* below indicate that the eastern boundary of the site, including the 'hole' is located on a ridge line at the lands on either side flow away from this eastern boundary. This hole does not have a drainage function and does not have or offer a hydrological benefit for the existing site or the surrounding lands.

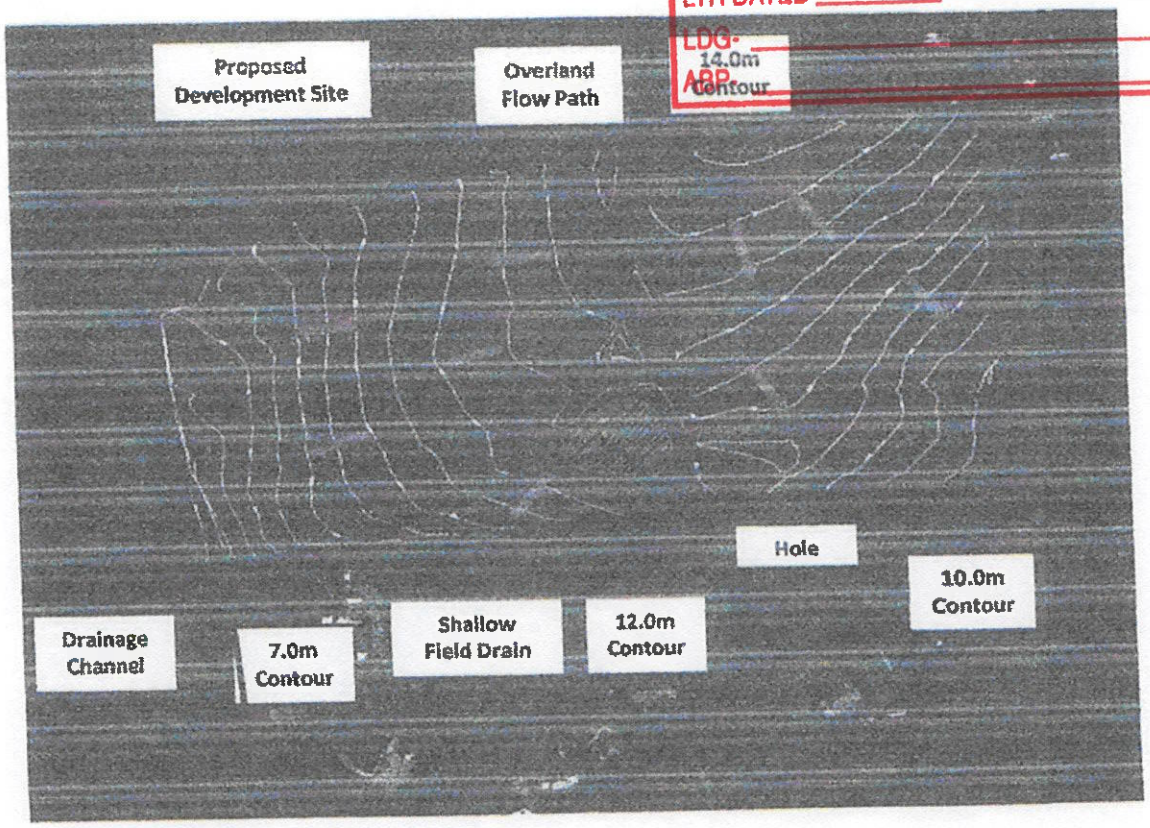


Figure 13 – Site Contours

The 'hole' located in the south-eastern corner of the site is connected to a shallow field drain along the southern boundary as shown in *Figure 13* above. This field drain was blocked prior to filling the hole, which is the reason why there was water in the hole.

The 'hole' was recently drained by unblocking the shallow field drain and allowed the waters to flow along the natural conveyance route into the drainage channel located along the western boundary of the site. The appeal submitted on behalf of Mr Brennan states that:

"It has to be assumed that all of the water in the marl hole, if permitted to be infilled through a grant of planning permission, would have had to first settle in the new attenuation tanks before passing through interceptors and then discharging to the drainage network".

The purpose of the proposed surface water attenuation system is to attenuate surface water runoff generated from the hard-standing areas proposed within the site. Similarly the purpose of the interceptors proposed is to mitigate the risk of silt and hydrocarbons generated on the hard-standing areas from discharging from the site. The hole was drained by simply unblocking the existing field drain, which is existing conveyance route. There is no requirement to attenuate this discharge or to treat these waters in the same manner as that of any development of the site.

Surface water runoff from the site shall be controlled during the construction stage by the construction of a number of surface water swales will be installed around the perimeter of the construction footprint. All surface water collected in swales will be directed to a silt interceptor, which will prevent from discharging from the site. The surface water shall then be directed into the onsite attenuation tanks, which will restrict runoff to greenfield rates during the construction phase. A full class 1 hydrocarbon and silt interceptor will be installed at the attenuation tank outlet and all waters discharging from the attenuation tank will first pass through the interceptor prior to discharge to the receiving surface water network. This will allow for the control and management of all surface water runoff within the site during the construction phase.

7.3 *Appeal Submission by Mr John Molloy – Surface Water Flooding*

Mr Molloy has referenced a previous planning application in Crosstown (planning reference 20161426) where he identified surface water flooding as being an issue with that application. That particular site is 400m north-east of this proposed development site and has no hydrological link to this application, therefore the comments in relation to surface water flooding at that site are not relevant to the current application.

In relation to the photos showing surface water flooding the first photo, which shows flooding in a field, is located at the end of Orchard Lane. This area has no hydrological link to this application and therefore any flooding that may occur in the vicinity of Orchard Lane is irrelevant to this application.

The surface water flooding shown on the R741 has no impact on the current proposed development site and will not have any impact on access to and from the site. The flooding on the photograph provided by Mr Molloy is shown on one side of the road carriageway, which occurs as a result of a low point in the road. The site can be accessed from Wexford Town from the other side of the road, which is not shown to be affected by flooding.

The discharge from the proposed development site is not hydrologically linked to the surface water on the R741. As presented in *Section 6.1* above the development as proposed will not result in an increased flood risk to downstream lands. It is proposed to discharge surface water runoff from the site to the drainage channel located along the western boundary of the site. This drainage channel is the current point of discharge for the green field site as the topography of the land falls towards the western boundary.

The minimum elevation with the proposed development site is 6.5m OD. The Irish Coastal Protection Strategy Maps, shown in *Section 4.7* above, indicate the 1 in 1000 year tidal flood level for the High End Future Climate Change Scenario is 2.95m OD, almost 3.5m lower than the minimum elevation within the proposed development site.

Extract from planers report for 20180713

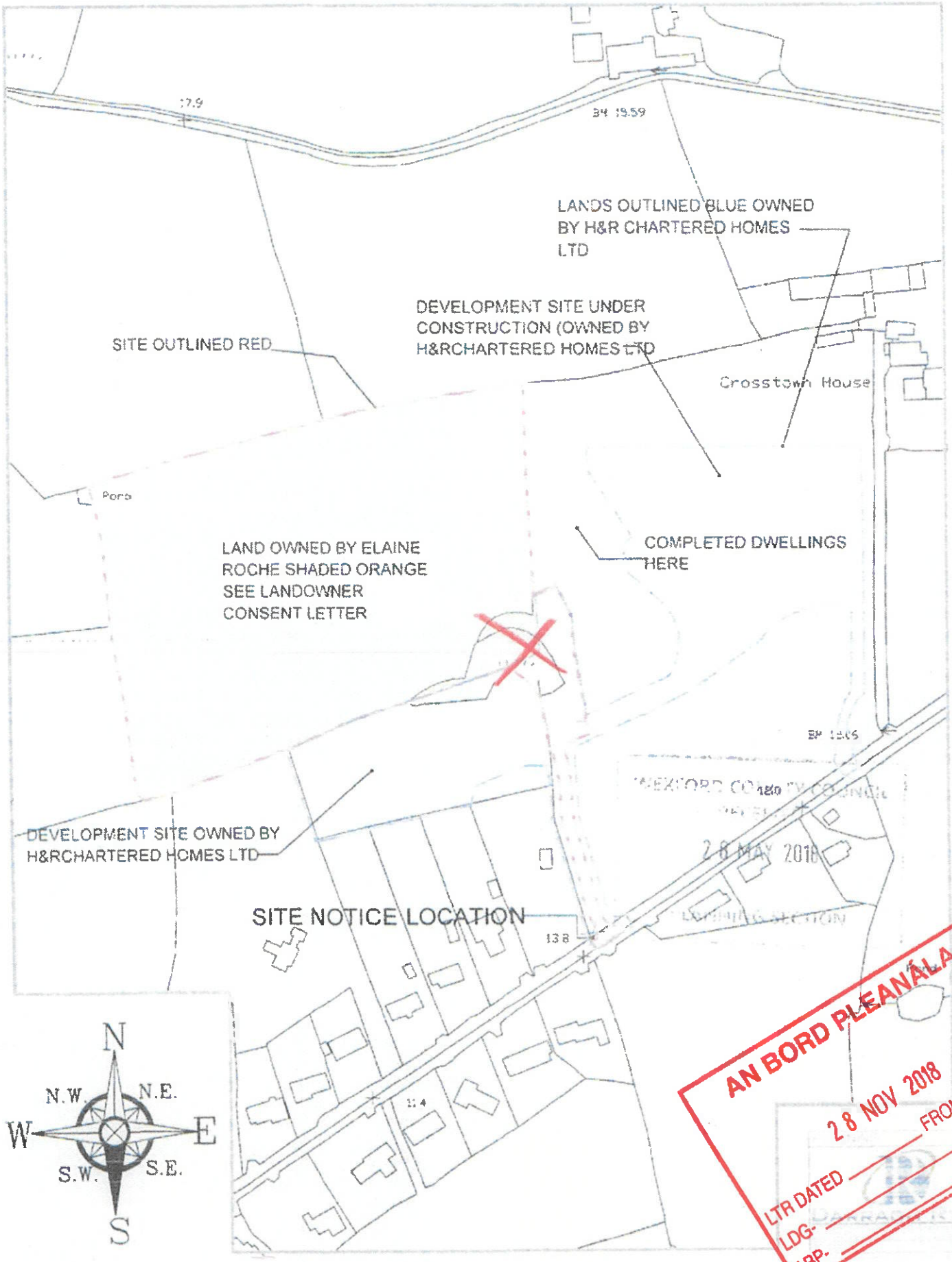
Area for access to site (marl hole immediately to left)

Aerial map of the site in question

The hole was a substantial body of water of unknown depth

FROM - OS 5710

OSI LICENSE NO [EN0074418] - DARRAGH RYAN ENGINEERS



SITE LOCATION - 1:2500

WEXFORD COUNTY COUNCIL PLANNING AUTHORITY

PLANNING AND DEVELOPMENT ACT 2000 (as amended)

The Decision of Wexford County Council on the application described in the Schedule to this Notice is as shown therein.

Signed on behalf of *Wexford County Council* H. Kraym

Date : 29 March 2017

DECLARATION OF EXEMPTED DEVELOPMENT

SCHEDULE

PLANNING REG. NO.:	EXD00729
DATE OF APPLICATION:	15 October 2018
APPLICANT:	MICHAEL BRENNAN Mullan Rua Crosstown Wexford Y35 KW13
TYPE OF APPLICATION:	EXEMPTED DEVELOPMENT
PROPOSED DEVELOPMENT:	REMOVAL OF TREES AND OTHER VEGETATION FROM THE SITE AND INFILLING OF THE EXISTING HOLE (UNDERSTOOD TO HAVE BEEN A FORMER MARL HOLE), WITH UNKNOWN INFILL MATERIAL AND TOP SOILING OF THE FILLED HOLE. ALSO CARRYING OUT WORKS TO ALLOW WATER HELD IN HOLE TO DISCHARGE TO THE EXISTING NATURAL DRAINAGE NETWORK.
LOCATION:	CROSSTOWN, ARDCAVAN
DECISION:	PART EXEMPT & PART NOT EXEMPT

EXEMPTED DEVELOPMENT as listed hereinafter:-

REMOVAL OF TREES AND OTHER VEGETATION FROM THE SITE

EXD00729

NOT EXEMPT as listed hereinafter:-

INFILLING OF THE EXISTING HOLE (UNDERSTOOD TO HAVE BEEN A FORMER MARL HOLE), WITH UNKNOWN INFILL MATERIAL AND TOP SOILING OF THE FILLED HOLE. ALSO CARRYING OUT WORKS TO ALLOW WATER HELD IN HOLE TO DISCHARGE TO THE EXISTING NATURAL DRAINAGE NETWORK.

DATE OF DECISION: 9 November 2018

Planning Register No. EXD00729

REASONS

1. (a) the said infilling of the existing marl hole with unknown infill material and top soiling of the filled hole, also carrying out works to allow water held in the hole to discharge to the existing natural drainage network come within the scope of sections 2(1) and 3(1) of the Act, as amended, and constitute development,

   (b) the said infilling of the existing marl hole with unknown infill material and top soiling of the filled hole, also carrying out works to allow water held in the hole to discharge to the existing natural drainage network does not come within the scope of Class 11, Part 1, Schedule 2, of the Planning and Development Regulations, 2001, as amended,

   (c) the said infilling of the existing marl hole with unknown infill material and top soiling of the filled hole, also carrying out works to allow water held in the hole to discharge to the existing natural drainage network does not come within the scope of section 4(4) Planning and Development Act, 2000, as amended.

   (d) the said the infilling of the existing marl hole with unknown infill material and top soiling of the filled hole, also carrying out works to allow water held in the hole to discharge to the existing natural drainage network does not come within the scope of article 8B, 8C, 8F of the Planning and Development Regulations, 2001, as amended.

END OF SCHEDULE

Planning and Development Act 2000 (as amended)

Application for Declaration of Exempted Development

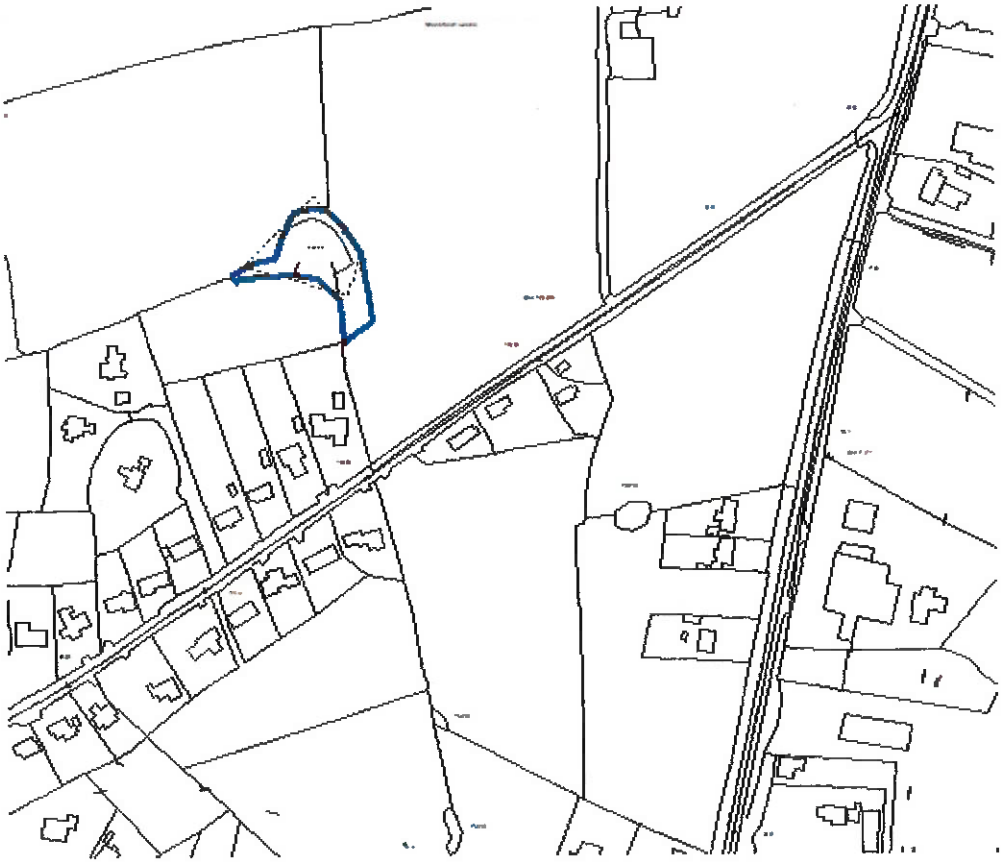
(Part 1, Section 5)

Register No. EXD00729

Applicant: MICHAEL BRENNAN

Proposal: REMOVAL OF TREES AND OTHER VEGETATION FROM THE SITE AND INFILLING OF THE EXISTING HOLE (UNDERSTOOD TO HAVE BEEN A FORMER MARL HOLE), WITH UNKNOWN INFILL MATERIAL AND TOP SOILING OF THE FILLED HOLE. ALSO CARRYING OUT WORKS TO ALLOW WATER HELD IN HOLE TO DISCHARGE TO THE EXISTING NATURAL DRAINAGE NETWORK.

Location: CROSSTOWN, ARDCAVAN



Site History

20150620 - H & R CHARTERED HOMES LTD - PERMISSION FOR THE CONSTRUCTION OF 10 NO. FULLY SERVICED DWELLING HOUSES INCLUDING ALL ASSOCIATED SITE WORKS - **granted**

20150633 - H & R CHARTERED HOMES LTD - PERMISSION FOR THE CONSTRUCTION OF 3 NO FULLY SERVICED DWELLING HOUSES INCLUDING ALL ASSOCIATED SITE WORKS - **granted**

20170467 - H & R CHARTERED HOMES LTD. - PERMISSION FOR A CHANGE OF HOUSE TYPE ON SITES 3, 5, 6, 7 AND 8 OF APPROVED PLANNING PERMISSION FOR 10 DWELLINGS, DEVELOPMENT SITE CURRENTLY UNDER CONSTRUCTION (PLANNING REGISTER NO. 20150620) - **granted**

20180713 H & R CHARTERED HOMES LTD. – PERMISSION FOR CONSTRUCTION OF 24 NO. FULLY SERVICED DWELLING HOUSES INCLUDING ALL ASSOCIATED AND ANCILLARY SITE DEVELOPMENT WORKS. A NATURA IMPACT STATEMENT WILL BE SUBMITTED TO THE PLANNING AUTHORITY WITH THE PLANNING APPLICATION AND THE NATURA IMPACT STATEMENT WILL BE AVAILABLE FOR INSPECTION OR PURCHASE AT A FEE NOT EXCEEDING THE REASONABLE COST OF MAKING A COPY DURING OFFICE HOURS AT THE OFFICE OF THE PLANNING AUTHORITY – **Under Appeal**

Legislative Provisions

(a) Planning and Development Act 2000, as amended.

Section 2(1)

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and….."

Section 3(1)

"development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4 (1) (i)

4.—(1) The following shall be exempted developments for the purposes of this Act—

i) development consisting of the thinning, felling or replanting of trees, forests or woodlands or works ancillary to that development, but not including the replacement of broadleaf high forest by conifer species;

Section 4(2)(a)(i)

"The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that –

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or…."

Section 4(4)

"Notwithstanding..... any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required"

(b) Planning and Development Regulations 2001 (as amended)

Article 5
"Wetlands" means natural or artificial areas where biogeochemical functions depend notably on constant or periodic shallow inundation, or saturation, by standing or flowing fresh, brackish or saline water.

Article 6(1)
"Subject to article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in Column 2 of the said Part 1 opposite the mention of that class in the said Column 1".

Article 8

8B Works consisting of field drainage for agriculture, other than drainage and/or reclamation of wetlands, shall be exempted development.
8C Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.
8F Development consisting of the thinning, felling or replanting of trees, forests or woodlands, or works ancillary to that development, but not including the replacement of broadleaf high forest by conifer species, shall be exempted development.

Schedule 2, Part 3

Land Reclamation
CLASS 11
Development consisting of the carrying out of drainage and/or reclamation of wetlands

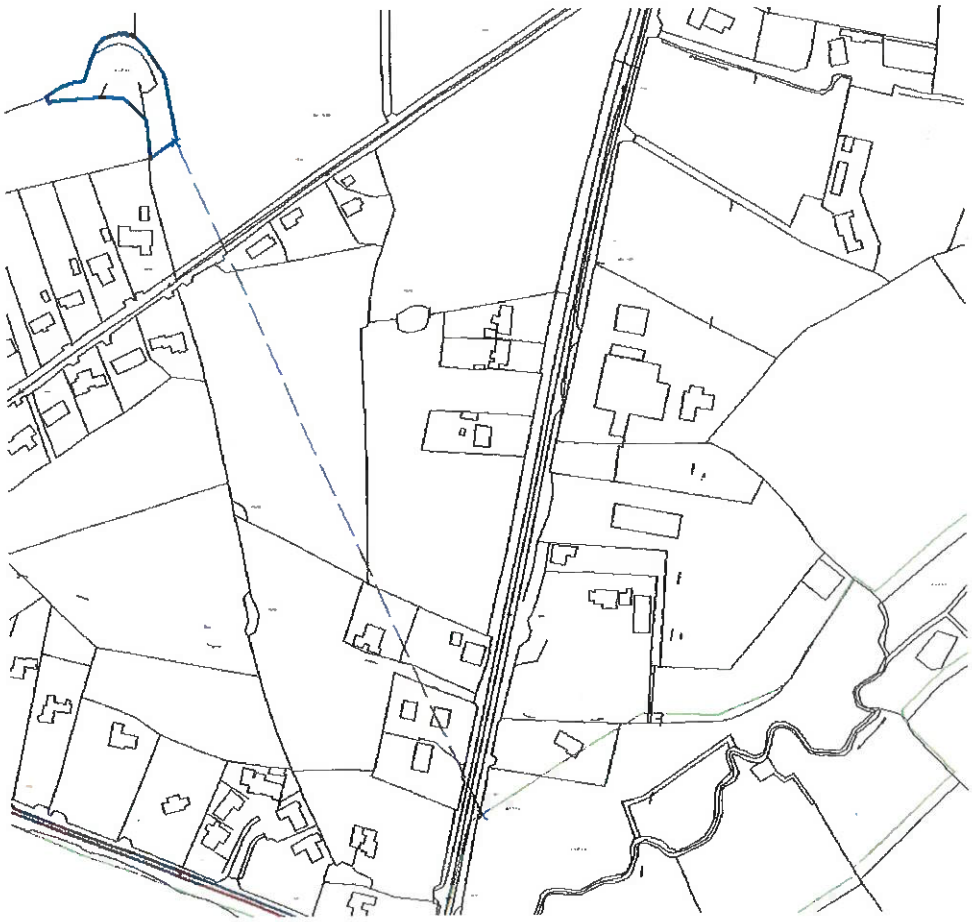
1. The area to be affected shall not exceed 0.1 hectares.
2. Where development has been carried out within a farm holding under this class, the total area of any such development taken together with the area of any previous such development within the farm holding shall not exceed the limits set out in 1. above.

Article 9(1) "Development to which Article 6 relates shall not be exempted development for the purposes of the Act –

(a) If the carrying out of such development would –

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,



500m north west of Wexford Harbour and Slobs SPA and Slaney River Valley SAC

Development

Having regard to the nature of the proposal, namely the infilling of a former marl hole with an estimated area of 0.2ha, with unknown infill material and works to drain water held in the hole to discharge to natural drainage network, by reference to Section 2(1) and 3(1) of the Act, that it does constitute development for planning purposes. The focus, therefore, is on whether or not the proposed development constitutes exempted development.

Following on from Section 4(2)(a)(i) of the Act, and the Regulations made thereunder, the relevant class of development is, as indicated,

Land Reclamation
CLASS 11
Development consisting of the carrying out of drainage and/or reclamation of wetlands

1. The area to be affected shall not exceed 0.1 hectares.
2. Where development has been carried out within a farm holding under this class, the total area of any such development taken together with the area of any previous such development within the farm holding shall not exceed the limits set out in 1. above.

The marl hole measure in excess of 0.1ha and therefore if fill material originated within the landholding the development is still considered not exempt.

If the fill material constituted waste material the infilling is also not exempted development as no such exempted development class exists.

Environmental Impact Assessment (EIA)

Being an infill development of unknown material the development can be assumed as including material which could constitute waste and therefore the development falls within a class of development for the purposes of EIA Screening. Being a wetland the infilling of a wetland is a threshold EIA development and therefore the proposed 0.2ha wetland being infilled and drained is a sub-threshold development and would require Screening for the requirement to carry out an EIA.

EIA Threshold in Schedule 5 Part 2
Development consisting of the carrying out of drainage and/or reclamation of wetlands where more than 2 hectares of wetlands would be affected.

Appropriate Assessment (AA)

In relation to AA the application documentation submitted to the Planning Authority included Screening for Appropriate Assessment as part of this Section 5 application.

Potential impacts on the SAC would occur if deleterious material was to enter the Natura 2000 wetland habitat during infill construction works and drainage of the wetland. However the amount of material that could potentially be lost with the distance to the Natura 2000 sites and intervening lands capacity to absorb any surface water and trap deleterious material will be insignificant.

The application has been screened from the requirements to carry out a Stage 2 Appropriate Assessment and I determine that the proposed development would not have significant effects on the Natura 2000 sites in view of the sites conservation objectives. However, the permanent loss of this wetland habitat would have a significant impact on local biodiversity and would be contrary to Objectives WQ05 and FRM07 of the Wexford County Development Plan 2013-2019.

Conclusion: Spilt decision

Having had regard to:

a) Sections 2(1), 3(1), 4 (1) (i) and4(4), of the Planning and Development Act, 2000, as amended,

(b) Articles 5, 6, 8B, 8C, 8F and 9 and Class 11 , Part 1, Schedule 2 of the Planning and Development Regulations, 2001, as amended

It is concluded that the infilling of the existing marl hole with unknown infill material and top soiling of the filled hole, also carrying out works to allow water held in the hole to discharge to the existing natural drainage network is **development, and is not exempted development.**

It is concluded that the removal of trees and other vegetation from the site **is development and is exempted development.**

Recommendation:

Having regard to the foregoing, I recommend that it be decided that the infilling of the existing marl hole with unknown infill material and top soiling of the filled hole, also carrying out works to allow water held in the hole to discharge to the existing natural drainage network **is development and is not exempted development.**

AND

Having regard to the foregoing, I recommend that it be decided that the removal of trees and other vegetation from the site **is development and is exempted development.**

A draft order is set out below.

WHEREAS a question has arisen as to whether the infilling of the existing marl hole with unknown infill material and top soiling of the filled hole, also carrying out works to allow water held in the hole to discharge to the existing natural drainage network at the Crosstown, Ardcavan is or is not development or is or is not exempted development;

AND WHEREAS Peter Thompson, Peter Thomson Planning Solutions, requested a declaration on the said question on the 15th October 2018;

AND WHEREAS Wexford County Council has concluded that –

(a) The said the removal of trees and other vegetation from the site is development comes within the scope of Section 4(1)(i) and is exempted development of the Act, as amended, and constitute exempted development.

(b) the said infilling of the existing marl hole with unknown infill material and top soiling of the filled hole, also carrying out works to allow water held in the hole to discharge to the existing natural drainage network come within the scope of sections 2(1) and 3(1) of the Act, as amended, and constitute development,

(c) the said infilling of the existing marl hole with unknown infill material and top soiling of the filled hole, also carrying out works to allow water held in the hole to discharge to the existing natural drainage network does not come within the scope of Class 11, Part 1, Schedule 2, of the Planning and Development Regulations, 2001, as amended,

(d) the said infilling of the existing marl hole with unknown infill material and top soiling of the filled hole, also carrying out works to allow water held in the hole to discharge to the existing natural drainage network does not come within the scope of section 4(4) Planning and Development Act, 2000, as amended.

(e) the said the infilling of the existing marl hole with unknown infill material and top soiling of the filled hole, also carrying out works to allow water held in the hole to discharge to the existing natural drainage network does not come within the scope of article 8B, 8C, 8F of the Planning and Development Regulations, 2001, as amended, and

Now Therefore, Wexford County Council , in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides

(a) the removal of trees and other vegetation from the site at Crosstown, Ardcavan, Co. Wexford **is development and is exempted development**
(b) (b) that the infilling of the existing marl hole with unknown infill material and top soiling of the filled hole, also carrying out works to allow water held in the hole to discharge to the existing natural drainage network at Crosstown, Ardcavan, Co. Wexford **is development and is not exempted development.**

Niamh Lennon
Executive Planner

Date: 07th November 2018

James Lavin
Senior Executive Planner

Date: 07th November 2018

AN BORD PLEANÁLA
28 NOV 2018
FROM
LTR DATED
LDG-
ABP-

EIA Screening – Stage 1 Preliminary Examination

Planning Number:	EXD00729

Development Description:
REMOVAL OF TREES AND OTHER VEGETATION FROM THE SITE AND INFILLING OF THE EXISTING HOLE (UNDERSTOOD TO HAVE BEEN A FORMER MARL HOLE), WITH UNKNOWN INFILL MATERIAL AND TOP SOILING OF THE FILLED HOLE. ALSO CARRYING OUT WORKS TO ALLOW WATER HELD IN HOLE TO DISCHARGE TO THE EXISTING NATURAL DRAINAGE NETWORK.

Location: CROSSTOWN, ARDCAVAN

Preliminary Examination Process
Can likely significant effects on the environment be ruled out at a high level? Yes or No

Yes - No real likelihood of significant environmental effects – EIAR not required or no notification required
OR
No - If such effects can not be immediately ruled out based on nature, scale and location – then continue to Screening Determination.

Examination

	Yes/No/Uncertain	Comment
Is the size of development exceptional in the context of the existing development?	No.	0.2 ha only.
Is the proposed development located on, in, adjoining or have the potential to impact on a sensitive site or location?	No.	
Will the development result in the production of any significant waste, or result in emissions or pollutants?	No.	

Conclusion

Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment?

There is no likelihood of significant effects on the environment	EIAR not required	✓	
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	Stage 2 Screening Determination required.		
	Sch 7A Information required	Yes	No
There is a real likelihood of significant effects on the environment	EIAR is required		

Planner

Date: 7/11/18.

Note: A Stage 2 Screening Determination must be carried out if there is significant and **realistic doubt** in regard to the likelihood of significant effects on the environment arising from the proposed development, or Planning permission for the **retention** of development CANNOT be granted if a Screening Determination is required.

AN BORD PLEANÁLA
28 NOV 2018
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

EIA Pre-Screening – No EIAR Submitted

Planning Number:	EXD00729
Development Description: REMOVAL OF TREES AND OTHER VEGETATION FROM THE SITE AND INFILLING OF THE EXISTING HOLE (UNDERSTOOD TO HAVE BEEN A FORMER MARL HOLE), WITH UNKNOWN INFILL MATERIAL AND TOP SOILING OF THE FILLED HOLE. ALSO CARRYING OUT WORKS TO ALLOW WATER HELD IN HOLE TO DISCHARGE TO THE EXISTING NATURAL DRAINAGE NETWORK.	
Location:	CROSSTOWN, ARDCAVAN

1. Does the proposed development constitute an EIA project? (that is involving construction work or interventions in the natural surroundings)	Yes	✓
	No	

2. If YES, does the proposed development fall within a class of development set out in Part 1 or Part 2, Schedule 5 of the Planning & Development Regulations 2001 (as amended)

Tick		Threshold		Comment	Result
No		N/A			No EIA or Screening for EIA required
Yes		Exceeds/ is equal to/ No Threshold			EIAR required
		Sub Threshold	✓	0.2ha drainage of wetland infill with waste.	EIA Screening required Proceed to Page 2

Conclusion

Development is not within Part 1 or Part 2, Schedule 5. No EIA/Screening is required.	
Development is within Part 1 or 2 and is greater than, equal to, or there is no threshold. EIAR is required.	
Development is within Part 1 or 2 but is less than threshold. EIA Screening is required.	✓

Nick Comer

Planner

Date: 7/11/18

AN BORD PLEANÁLA

28 NOV 2018

LTR DATED _____ FROM _____

LDG- _____

ABP- _____