



An
Bord
Pleanála

Inspector's Report ABP-306340-20

Development	Construction of 12 semi-detached houses and one detached house
Location	Carraig Abhainn, Knoxspark, Ballysadare, County Sligo
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	PL 19/310
Applicant(s)	Knoxpark Developments Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	1.) Carraig Abhainn Residents' Association 2.) Brian Fitzpatrick
Observer(s)	None
Date of Site Inspection	7 th May 2020
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located on the southern edge of Ballysadare town in County Sligo with access off the R290 regional road, which leads southeast towards Collooney. It comprises a housing estate containing a mix of single and two-storey semi-detached, detached and terraced houses fronting onto estate access roads. The vast majority of the 53 houses in the estate currently appear to be occupied with the estate service infrastructures, including roads and green areas, largely in situ.
- 1.2. The site is stated to measure 3.5ha and backs onto a single-lane local road to the west. Adjoining to the south are the gardens of houses fronting onto the regional road and agricultural fields bounded by a mix of hedgerows, mature trees and stone walls. The northern boundary of the site adjoins residential properties and undeveloped backlands. Ground levels on site rise steadily by approximately 15m from the eastern regional road boundary to the western local road boundary.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - construction of 12 three-bedroom semi-detached two-storey houses, each with a stated gross floor area (GFA) of 107sq.m and one three-bedroom detached single-storey house with a GFA of approximately 84sq.m in three locations;
 - connections to local services and minor alterations to roads, green areas, landscaping and boundary treatments.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to grant permission for the proposed development, subject to 11 conditions of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Report

The initial report of the planning authority (September 2019) noted the following:

- works are ongoing on site and many of the houses are occupied;
- the depth and area to all of the proposed rear gardens meet minimum standards and the proposed development would not result in adverse impacts on neighbouring residential amenities by virtue of overlooking, loss of privacy or overshadowing;
- 23% of the estate site area would be reserved for overlooked green space, which would be above the 15% normally required;
- revised house details are required to reflect the height and style of windows in the existing houses;
- sufficient off-street parking is proposed and a turning circle to serve the area fronting the proposed detached house 1c is required;
- further details regarding storm water drainage capacity, lighting and the names of the applicant company directors are necessary;
- the application was accompanied by correspondence to and from the Housing Section, addressing proposals in relation to Part V housing requirements.

The final report of the planning authority (December 2019) deemed the response to the further information request to be satisfactory and recommended a grant of planning permission.

3.2.2. Other Technical Reports

- Area Engineer – initially requested further information and subsequently recommended a grant of planning permission, subject to conditions;
- Environment Section – no objection, subject to conditions;
- Water Services – no response.

3.3. Prescribed Bodies

- Irish Water – no response.

3.4. Third-Party Submissions

- 3.4.1. During consideration of the application, submissions from six parties were received by the planning authority, and with the exception of an adjoining landowner, all parties were stated to be residents of the Carraig Abhainn estate. The issues raised in these submissions are similar to those raised within the grounds of appeal and are summarised under this heading below.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. According to the planning authority and the applicant, pre-planning discussions regarding housing on the site are stated to have been undertaken under Sligo County Council (SCC) ref. PP3322. The following applications relate to the appeal site:

- SCC Ref. PL99/81 – permission was granted by the planning authority in January 2000 for 97 houses and associated site works. An extension of duration of the permission was granted in January 2005 until January 2007 and a further extension of duration of this permission was granted in January 2007 until January 2009. A subsequent request to extend the duration of the permission in November 2008 was refused by the planning authority in December 2008 due to legislation restricting same;
- SCC Ref. PL05/470 – incomplete application submitted to the planning authority in June 2005 for alteration of boundaries previously granted under PL99/81, retention and completion of house nos.31 to 37 and all associated site works;
- SCC Ref. PL06/179 – permission and retention permission was granted by the planning authority in July 2006, following the withdrawal of a planning appeal (ABP Ref. PL21.217693) for alterations of the site boundaries previously granted permission under PL99/81 and the completion of house

nos.1 to 30 in revised locations and all associated site works, including revised layout.

- 4.1.2. Enforcement reference ENF 363, referring to compliance with conditions of a planning permission, is stated to relate to the appeal site.

4.2. Surrounding Sites

- 4.2.1. Reflective of the suburban site context, there have been numerous applications on lands in the immediate vicinity, primarily relating to domestic extensions and infill housing, including the following:

- SCC Ref. PL13/42 – permission refused in April 2013 by the planning authority for a house on a site adjoining to the south of the appeal site, due to the potential for overlooking from rear first-floor windows and a balcony.

5.0 Policy & Context

5.1. Sligo County Development Plan 2017-2023

- 5.1.1. The general planning policies and objectives for County Sligo are outlined in Volume 1 of the Sligo County Development Plan 2017-2023, while more specific local planning policies and objectives are outlined in Volume 2 of the Plan, including the Ballysadare Mini-Plan. The appeal site has a land-use zoning objective for 'Residential Uses' within the Ballysadare Mini-Plan.
- 5.1.2. The Development Plan identifies Ballysadare as a 'gateway satellite' to Sligo and its environs. The Plan recognises that there is capacity in the wastewater treatment plant serving the Ballysadare area. Section 5.2 of the Development Plan outlines policies with respect to housing in urban areas, the following of which are of note:
- P-UHOU-1 – the need for sequential development;
 - P-UHOU-2 – require high-quality layouts and design in developments;
 - P-UHOU-3 – provide a suitable housing mix;
 - P-UHOU-4 – promote more compact forms of residential development, while ensuring access to backland areas is reserved;
 - P-UHOU-6 – promote higher residential densities.

- 5.1.3. In addressing town and village design, Section 12.3.2 of the Plan outlines that in facilitating compact settlements, infill proposals shall have regard to the character and context of the surrounding area. Policy P-UD-15 requires residential development to be structured on a street network and to provide for future connections to adjoining lands, where appropriate.
- 5.1.4. Section 13.3 of the Plan outlines development management standards required for residential development in urban areas. Relevant standards include:
- the minimum size of a rear garden shall be 75 sq.m, with a depth of 11m;
 - infill developments may be permitted if there are no overlooking issues;
 - a minimum of 15% of a development site area shall be reserved for the provision of landscaped communal open space;
 - to ensure privacy, rear gardens should generally be provided with a permanent durable barrier (wall or fence) with a height of 2m;
 - two car parking spaces per house is required (see Table 13C).

5.2. National Guidelines

- 5.2.1. The following national guidelines are considered relevant in the consideration of this appeal:
- Project Ireland 2040 - National Planning Framework (2018);
 - Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (2009);
 - The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009);
 - Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

5.3. Natural Heritage Designations

- 5.3.1. The Unshin River Special Area of Conservation (SAC) (Site Code: 001898) is located 30m to the northeast of the site on the opposite side of the regional road.

The Unshin River and Owenmore River join to form the Ballysadare River, which forms part of the Unshin River SAC and discharges into Ballysadare Bay.

Ballysadare bay, which is located 1km to the northwest of the appeal site, is designated as both a Special Protection Area (SPA) (Site Code: 004129) and a SAC (Site Code: 000622).

5.4. Environmental Impact Assessment - Preliminary Examination

- 5.4.1. Having regard to the nature and scale of the proposed development and the location of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third-party appeal, stated to be from an owner of lands adjoining to the north of the appeal site, has been submitted, and this is accompanied by aerial photographs of the site and surrounding area, as well as conveyancing documentation. A second third-party appeal has been submitted by the Carraig Abhainn Residents' Association and this is accompanied by a copy of a promotional brochure for the subject residential estate. In conjunction with the third-party submissions, the issues raised can be collectively summarised as follows:

Residential Amenities

- all of the proposed rear gardens do not meet the 11m minimum depth required in the Development Plan;
- overlooking of neighbouring properties from the proposed first-floor bathroom windows and from houses 1a and 2a to the existing bungalow at no.18 would arise;
- the revised layout, including proposal for houses 1a and 2a and the potential positioning of the construction works compound on previously permitted green

areas serving the estate, would impact on the amenities and safety of residents;

- continued disturbance and increased safety risks would arise for local residents during the construction activity;
- loss of light and overshadowing of neighbouring properties would arise;
- vacant and unfinished housing in the town should be completed prior to new build housing, as supported in the Development Plan under the heading 'Vacant and Unfinished Housing';

Traffic & Access

- the increased traffic associated with the additional proposed houses along the estate access road would raise additional safety concerns, particularly for children;
- the proposed houses (1a and 2a) would completely restrict access to lands adjoining to the north of the site that are in separate ownership and which were previously facilitated with access via the applicant's lands;
- a previously permitted turning circle has been omitted from the area fronting proposed house 1c;

Visual Amenities

- the proposed houses would have an incongruous visual impact when viewed along the streetscape;
- the proposed house designs do not follow the design of existing housing in the estate, including the proposed provision of front porch features;

Other Matters

- no further housing in the estate was anticipated by residents when they purchased their homes, and proposals would result in the depreciation in the value of neighbouring properties;
- the site has been a ghost estate for over 15 years and the applicant is now cashing in after selling on all the houses constructed in the estate;

- existing foul and surface water infrastructures have not been installed with sufficient capacity to deal with the additional houses proposed;
- additional hard surfacing would increase the potential for flooding of the neighbouring river, which is susceptible to ongoing seasonal flood events;
- upkeep of the estate has been problematic and a bond is required for phases 2 and 3 of the development.

6.2. Applicant's Response

6.2.1. The applicant did not respond to the grounds of appeal.

6.3. Planning Authority Response

6.3.1. The planning authority's response to the grounds of appeal reaffirms their assessment of the proposed development, as outlined in the planning officer's report, and states that the appellants have not submitted any additional information that would alter the planning authority's recommendation and that the terms of contract of a private access to neighbouring properties through the application site is not a matter for the planning authority to adjudicate on.

6.4. Observations

6.4.1. None received.

7.0 Assessment

7.1. Introduction

7.1.1. The primary proposed revisions subject of this application when compared with the most recently permitted development on the appeal site (SCC Ref. PL06/179) dating from July 2006, comprise a reduction in the number of houses within the estate by 31 houses to 66 houses and the provision of two additional green areas to serve residents of the estate. When compared with the previously permitted development, the proposed development would result in:

- removal of an area that formed part of the original site (under SCC Ref. PL99/81), as highlighted in yellow on the site layout plan drawing (19/KDM/06) submitted;
- omission of 24 terraced houses from the southeast corner of the estate, and replacement with eight semi-detached houses with an additional area of green space;
- omission of 20 terraced houses on the northeastern boundary and provision of a second additional green space. Aerial photography of the area available from online sources appears to show that a number of these houses had been at least partially constructed before being removed;
- construction of four semi-detached houses on the northern boundary in an area previously identified for car parking and green space;
- construction of a detached house in the southwest corner occupying an area previously set aside for part of an internal turning bay and green space.

7.1.2. I consider the substantive planning issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Services, Density, & Layout;
- Access & Traffic;
- Residential Amenity;
- Design & Visual Impact;
- Flood Risk.

7.2. Services, Density & Layout

7.2.1. The original grant of planning permission under SCC Ref. PL99/81 dating from 2000, provided for 97 houses in a mix of housing typologies on a 3.7 hectare site, equating to a residential density of 26 units per hectare. The subsequent revisions permitted in July 2006 under SCC Ref. PL06/179 did not result in alterations to the residential density of the development. To date, a total of 53 of the permitted houses have been constructed in the estate, equating to a residential density of approximately 15 units per hectare. The proposed development would involve the construction of 13

additional houses in three locations on a slightly reduced site of 3.5 hectares, which would result in a residential density of 19 units per hectare and a reduction of 31 houses.

- 7.2.2. The layout of the development is largely dictated by the site topography and the previously permitted layout of the development, including the housing, roads and green areas that have been provided to date. The applicant states that the proposed development would result in 23% of the estate area being set aside for public green space, which would readily exceed the 15% minimum development site area required to be reserved based on standards in the Sligo County Development Plan 2017-2023.
- 7.2.3. The grounds of appeal raise concerns regarding the capacity of local services and Irish Water and the Water Services section of the planning authority did not respond during consultation on the application. According to the Development Plan, the wastewater treatment plant serving Ballysadare can accommodate loading for a population equivalent of 4,500 persons, and in 2013 the plant served 2,407 persons, while there has been minimal change in loading in the interim. The applicant asserts that the existing services are in charge of Sligo County Council and / or Irish Water and they were originally installed to facilitate 97 houses on the site. The Area Engineer and the Environment Section of the planning authority did not raise concerns regarding the capacity of local services, subject to the provision of a fuel interceptor prior to commencing the proposed development. Services to accommodate the additional housing appear to be largely in situ, available and capable of being accommodated locally and any additional connections to water services can be agreed with Irish Water.
- 7.2.4. I recognise that additional houses are proposed as part of the proposed development, including 5 houses in two locations that had previously been permitted for green areas. However, the proposed density of the scheme, incorporating two substantial additional green areas previously permitted to provide for housing, would not provide for an acceptable efficient use of serviced and zoned residential land, within the settlement boundary and proximate to the town centre of Ballysadare. Ballysadare features established social, community and commercial services and is designated as a gateway satellite to Sligo in the settlement hierarchy set out within the Sligo County Development Plan 2017-2023. In this regard it is considered that

the proposed development would be contrary to the provisions set out in the Section 28 Ministerial Guidelines, Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009), which support increased densities on residentially-zoned lands and discourage net densities of less than 30 units per hectare in the interests of land efficiency, particularly on sites in excess of 0.5 hectares. Furthermore, the National Planning Framework (NPF) issued by the Government of Ireland in 2018, includes National Policy Objective 35, which seeks to increase residential densities in settlements through a range of measures, including infill development schemes, and the subject proposals would fail to achieve same.

7.2.5. Noting the commentary within the aforementioned Ministerial Guidelines, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings and the need to provide infill housing, the subject site could sustain and accommodate a more appropriate density of development, particularly having regard to the previous permissions, while ensuring reasonable protection of existing amenities in the environs, through high-quality design and layout. The information provided by the applicant does not specifically address or justify the density of the proposed development, the extent of green areas serving the estate or the omission of previously permitted areas for housing within the site.

7.2.6. In conclusion, these matters may constitute new issues in the context of the application and appeal, therefore, the Board may consider it appropriate and in the interest of justice, to notify all parties so as to allow for the making of any submissions or observations on these matters. Notwithstanding this, I am satisfied that the development, as currently proposed, would fail to make efficient use of serviced zoned residential land and, accordingly, would be inconsistent with the provisions of the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities and National Policy Objective 35 of the NPF. Consequently, there are sufficient grounds to refuse permission for the proposed development for this reason.

7.3. Access & Traffic

7.3.1. The grounds of appeal raise concerns regarding the loss of a turning area in the southwest corner fronting the proposed detached house 1c. Within the revised proposals submitted to the planning authority, a turning area would be provided

fronting house 1c, serving a short stretch (c.30m) of internal access road and this appears to have been already constructed on site.

- 7.3.2. The grounds of appeal assert that the revised layout of the development, in particular the provision of houses 1a and 2a on the northern boundary, would completely restrict access to lands adjoining to the north of the site that are in separate ownership and which an appellant states were previously facilitated with access via the applicant's lands. While the previously permitted development (SCC Ref. 06/179) did not formally provide for an access to this appellant's lands, there would have been better scope for access within the previously permitted layout, as this provided for a residual green area and car parking in the area of the currently proposed houses 1a and 2a. While I recognise policies P-UHOU-4 and P-UD-15 within the Development Plan encourage the provision of access to backland areas as part of development proposals, the subject lands amounting to 0.1ha are currently zoned as 'open space' within the Ballysadare Mini-Plan, which places significant statutory planning constraints in the development of these lands for housing. Consequently, based on current statutory zoning objectives, the area of the backlands and having regard to the planning history of the appeal site, I am satisfied that there would not be a necessity under planning policy for the subject proposals to facilitate access to the appellant's adjoining lands. Specific legal rights to provide access from the subject site to the adjoining lands are a civil matter not for adjudication in this appeal and the onus is on the applicant to ensure that they have adequate legal interest to carry out the proposed development.
- 7.3.3. The western boundary of the site bounds a local road with footpaths leading to the town centre. It would be in the interests of improved connectivity and permeability particularly for residents on the western side of the estate, as well as being in line with the aforementioned Ministerial Guidelines, that access should be provided to this local road, in order to maximise permeability for pedestrians and cyclists, to increase connectivity and to encourage more sustainable modes of transport. The difference in ground levels from the estate to the local road is not substantial at approximately 1m. This should be a condition in the event of a grant of permission or should be requested as part of the consideration of the density and layout of the site.

- 7.3.4. I recognise that the additional houses would to some extent attract additional traffic to the estate access roads. However, this increase would not be substantial and would be less than that originally envisaged for the estate under the previously granted permissions for 97 houses and as the roads network has been designed with capacity to accommodate the increased traffic. Subject to compliance with the traffic management measures required by the Area Engineer, as conditions of a permission, the proposed development would not reasonably lead to concerns regarding traffic safety or convenience. I also recognise that the proposed development would attract additional traffic to the area during the construction period. However, the impacts of this construction-related traffic would be for a temporary period and can be suitably addressed within a construction traffic management plan for the proposed development, to be agreed with the planning authority. Various standard measures could also be undertaken to reduce risks to safety and disturbance of neighbours during construction.
- 7.3.5. Accordingly, given the concerns highlighted above in section 7.2 regarding the density and layout of the development and in the absence of pedestrian/cyclist connectivity between the site and the local road on the western boundary, part of the reason for refusing permission should address the need for improved pedestrian/cyclist access to the site.

7.4. Residential Amenity

- 7.4.1. The grounds of appeal assert that the proposed development would lead to overlooking and loss of light for the existing house at no.18, from the proposed adjacent houses; 1a and 2a. Proposed house 1a, a two-storey semi-detached house, would not feature first-floor side elevation windows facing onto the existing adjoining two-storey dormer-style detached house at no.18. Given the absence of windows serving habitable rooms on the side elevation of house 1a facing no.18, I am satisfied that the potential for excessive direct overlooking or loss of privacy would not arise. Furthermore, proposed house 1a would have a finished ground-floor level approximately 1m below that of no.18, as illustrated on the streetscape contextual drawing submitted (19/KDM/05) and house 1a would be 3m to the east of no.18. Considering the difference in ground levels, the separation distance between the existing and proposed houses and the modest height of the proposed house at a

stated 8.4m, I am satisfied that the potential for the proposed development to restrict light to no.18 would not be significant. Furthermore, excessive direct overlooking and loss of light to neighbouring properties from proposed house 1c to the adjoining existing house no.36 in the southwest corner, and from proposed house 1b to the adjoining existing house no.53 in the southeast corner, would not arise due to the scale, design, siting and layout of the proposed housing relative to existing housing.

7.4.2. The grounds of appeal assert that the depth of the proposed rear gardens do not meet the minimum 11m required for urban housing based on Development Plan standards. The planning authority note that the areas of the proposed rear gardens meet the minimum 75sq.m required in the Development Plan. While a number of garden depths are dimensioned by the applicant to show garden depths slightly below the 11m requirement, the shortfall, which is generally less than 1-2m, would not be substantial, particularly when considering the context for these rear gardens relative to neighbouring buildings, including distances to the nearest rear elevations of existing houses. For example, proposed house 2b would be approximately 22m from the rear elevation of existing house no.41 and such a distance would be typical for a suburban context such as this and would not lead to excessive direct overlooking between properties. To ensure privacy, the Development Plan requires that rear gardens are generally provided with a permanent durable barrier (wall or fence) with a height of 2m. I note that a 1.8m-high concrete post and timber panel fence is proposed and this could be conditioned to be 2m in the event of a grant of planning permission.

7.4.3. The grounds of appeal assert that the proposed development would lead to a depreciation in the value of property in the vicinity. Arising from the assessment above, in particular with regard to the impact of the proposed development on neighbouring residential amenities, and cognisant of the planning history for the site, including the initiated permissions, I am satisfied that clear and convincing evidence has not been provided to support claims that the proposed development would be likely to result in the depreciation of property values in the vicinity. While I recognise that extensive works have been completed to service and landscape the estate, in the event that permission is granted for the proposed development, a bond should be requested via condition, to secure the satisfactory completion of future phases of the development.

7.4.4. Having regard to the above considerations, the development would not give rise to an unacceptable impact on residential amenity and permission for the proposed development should not be refused for this reason.

7.5. Design & Visual Impact

7.5.1. There are no scenic routes or visually-vulnerable protected views overlooking this site, while the site and surrounding area does not have any conservation status. With regard to serviced infill sites, Policy P-UHOU-4 of the Development Plan encourages infill developments within settlement boundaries in promoting more compact forms of residential development. Section 12.3.2 of the Development Plan outlines that in facilitating compact settlements, infill proposals should have regard to the character and context of the surrounding area. The existing housing within the estate comprises a mix of house types. The proposed house designs provide for a bungalow style house and two-storey semi-detached houses. The siting, scale, height, proportions, materials and design of the proposed houses would not conflict with neighbouring houses and would be appropriate for the site. I consider that the introduction of additional housing into three locations within the estate, would not unduly impact on the character of the streetscapes, would not form incongruous additions to the area and would accord with the provisions of the Development Plan. Accordingly, permission should not be refused for reasons relating to the visual impact of the proposed development.

7.6. Flood Risk

7.6.1. The mapping prepared by the Office of Public Works (OPW), as part of an area for further assessment in the Western Catchment Flood Risk Assessment, indicates that the site is outside of flood risk areas. The site is located in Flood Zone C, where the probability of pluvial and fluvial flooding from storm water and rivers is low (i.e. less than 0.1% or 1 in 1,000). While residential development is classified as a 'highly-vulnerable development', it is considered 'appropriate' in Flood Zone C under the matrix set out in 'The Planning System and Flood Risk Management Guidelines for Planning Authorities'. I do not consider that the proposed development would be likely to be at significant risk from flooding, nor would it increase the likelihood of

flooding to other lands in the area and permission for the proposed development should not be refused for this reason.

8.0 Appropriate Assessment

8.1. Stage 1 - Screening

- 8.1.1. The site location is described in section 1 of this report above. A description of the proposed development is provided in section 2 of this report and expanded upon below where relevant. Neither a screening report for appropriate assessment nor a Natura Impact Statement was submitted with the application. Consultation was not undertaken with the Department of Culture, Heritage and the Gaeltacht.

8.2. Is the Project necessary to the Management of European sites?

- 8.2.1. The project is not necessary to the management of a European site.

8.3. Direct, Indirect or Secondary Impacts

- 8.3.1. The potential direct, indirect and secondary impacts that could arise as a result of the proposed works, which could have a negative effect on the qualifying interests of European sites, include the following:
- impacts on water quality, for example via release of suspended solids, accidental fuel spills or release of contaminants from made ground, during construction and operational phases.

8.4. Description of European Sites

- 8.4.1. There are three European sites within approximately 1km of the appeal site and these are listed in section 5.3 above. All other European sites are screened out from this assessment, based on the separation distance from the appeal site to the European sites, the location of the European sites upstream of the appeal site and the dilution effect of intervening marine waters to European sites that are downstream. The following conservation objectives listed in tables 1, 2 and 3 are set for the nearest of the European sites.

Table 1. Conservation Objective for the Unshin River SAC (Site Code: 001898)

To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected	
Code	Description
3260	Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation
6210	Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites – priority habitat)
6410	<i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>)
91E0	Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>)
1106	Salmon
1355	Otter

Table 2. Conservation Objectives for Ballysadare Bay SPA (Site Code: 004129)

To maintain the favourable conservation condition of Light-bellied Brent Goose;
To maintain the favourable conservation condition of Grey Plover;
To maintain the favourable conservation condition of Dunlin;
To maintain the favourable conservation condition of Bar-tailed Godwit;
To maintain the favourable conservation condition of Redshank;
To maintain the favourable conservation condition of the wetland habitat in Ballysadare Bay SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

Table 3. Conservation Objectives for Ballysadare Bay SAC (Site Code: 000622)

To maintain the favourable conservation condition of Estuaries;

To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide;
To maintain the favourable conservation condition of Embryonic shifting dunes;
To restore the favourable conservation condition of Shifting dunes along the shoreline with <i>Ammophila arenaria</i> ('white dunes');
To restore the favourable conservation condition of Fixed coastal dunes with herbaceous vegetation ('grey dunes');
To restore the favourable conservation condition of Humid dune slacks;
To maintain the favourable conservation condition of Narrow-mouthed Whorl Snail;
To maintain the favourable conservation condition of Harbour Seal.

- 8.4.2. Using the source-pathway-receptor model, there is connectivity from the appeal site to Unshin River SAC, Ballysadare Bay SPA and Ballysadare Bay SAC, as they are all downstream of the site and the proposed development is served by a storm sewer discharging directly to the Ballysadare River, as detailed on the site layout plan drawing submitted (19/KDM/06 - Revision 1 FI Response 11/19). Ballysadare River forms part of the Unshin River SAC and discharges to Ballysadare Bay 1km to the northwest of the site, which is the site of Ballysadare Bay SPA and Ballysadare Bay SAC. The Unshin River SAC is designated for its freshwater habitats, including those that support otter and salmon, while Ballysadare Bay SPA and Ballysadare Bay SAC comprise intertidal and coastal habitats that support a range of migratory and water birds, as well as water-dependent species such as harbour seal.
- 8.4.3. Having regard to the downstream hydraulic connectivity between the appeal site and each of the three nearest European sites, there is potential for interdependence and interconnectivity between storm water running from the appeal site into the receiving waters of the neighbouring SACs and SPA. Measures are required to control storm water quality discharging to the river, otherwise there would be concerns that the proposed development would pose an unacceptable risk to surface waters within the two neighbouring SACs and the SPA.
- 8.4.4. The aforementioned revised site layout plan drawing submitted does not show that the site is currently served by a fuel interceptor. Following an inspection of the site

and review of the details submitted, the Environment Section of the planning authority requested that a fuel interceptor be installed to serve the development. The Area Engineer in the planning authority also requested that a class 2 petrol interceptor be installed and Condition 6(e) of the planning authority's decision requested same, in the interests of orderly development.

- 8.4.5. A fuel interceptor is recognised as a standard requirement of sustainable urban drainage systems, filtering out hydrocarbons in storm water run-off, and parties to the application and appeal have not explicitly sought the installation of a fuel interceptor to specifically address impacts on receiving waters or the qualifying interests of European sites. However, I am satisfied that the provision of a fuel interceptor to specifically serve this development, which connects via direct discharge to proximate SAC waters in Ballysadare River, would be necessary to avoid or reduce the risk of pollutants in the form of hydrocarbons to surface waters within the neighbouring SACs and SPA. I am satisfied that this would be a necessary mitigation measure for the project aimed at reducing the likely significant adverse effects of the development, and such measures cannot be used to screen out a project from the requirement for Stage 2 Appropriate Assessment. Therefore, it cannot be reasonably ruled out beyond scientific doubt that there would not be significant effects, either individually or in combination with other plans or projects, on the subject European sites on the basis of the information available.

8.5. In-Combination Effects

- 8.5.1. I do not consider that there are any specific in-combination effects that arise from the development when taken in conjunction with other plans or projects.

8.6. Appropriate Assessment Screening Conclusion

- 8.6.1. On the basis of the information provided with the application and in response to the appeal, and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Unshin River SAC (Site Code: 001898), Ballysadare Bay SPA (Site Code: 004129) and

Ballysadare Bay SAC (Site Code: 000622), in view of the sites' conservation objectives. In such circumstances, the Board is precluded from granting permission.

9.0 Recommendation

- 9.1. I recommend that permission be refused for the proposed development, for the reasons and considerations, as set out below.

10.0 Reasons and Considerations

1. Having regard to the density for the estate arising from the proposed development, which would result in approximately 19 units per hectare on a site of 3.5 hectares, incorporating two substantial additional green areas that were previously permitted to provide for housing, it is considered that the overall density would not be sufficient to provide for an acceptable efficiency in the utilisation of serviced zoned residential land, within the settlement boundary of Ballysadare, which is designated as a 'Gateway Satellite' in the Settlement Hierarchy, as set out in the Sligo County Development Plan 2017-2023, on a site that is proximate to the town centre with established social, community and commercial services, and which could also be provided with increased pedestrian and cyclist connectivity from the local road on the western boundary. The proposed development would, therefore, be contrary to the provisions of the 'Guidelines for Planning Authorities: Sustainable Residential Development in Urban Areas' issued by the Department of the Environment, Heritage and Local Government in May 2009, in which it indicates that increased densities and connectivity should be encouraged on residentially-zoned lands. Furthermore, it is considered that having regard to the planning history of the site and the location and nature of the zoned, serviced site, proximate to the town centre, the proposed development would not be consistent with National Policy Objective 35, as set out in the National Planning Framework issued by the Government of Ireland in 2018, which seeks to increase residential density in settlements through a range of measures, including infill development schemes. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. On the basis of the information submitted with the planning application and the appeal and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Unshin River SAC (Site Code: 001898), Ballysadare Bay SPA (Site Code: 004129) and Ballysadare Bay SAC (Site Code: 000622), or any other European site, in view of the sites' conservation objectives. In such circumstances, the Board is precluded from granting permission

Colm McLoughlin
Planning Inspector

18th May 2020