



An
Bord
Pleanála

Inspector's Report PL14.246991

Development	Change of housing proposal previously granted under ref. PL15/178 from 6 to 9 houses at Cluain Rí, Creevaghbeg, Ballymahon, Co. Longford
Planning Authority	Longford County Council
Planning Authority Reg. Ref.	16/96
Applicant(s)	Patrick J. and Margaret Cunningham
Type of Application	Permission
Planning Authority Decision	Grant
Appellant(s)	Tracey Nally
Observer(s)	None
Date of Site Inspection	15 th October 2016
Inspector	Fiona Fair

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1.0 Site Location and Description

The site, which has a stated area of 0.326 ha, is accessed from the N55 Ballymahon-Athlone Road in the townland of Creevagh Beg c. 850 metres south east from Ballymahon town centre in County Longford.

The appeal site is located within an existing housing estate 'Cluain Rí' which comprises 44 semidetached two storey dwelling houses and one detached dormer dwelling. The site, located to the front of the estate, is rectangular in shape and currently comprises an open green space with a 2 -meter-high block wall located along the southern, northern and eastern boundaries. The western boundary is open onto a footpath and cul-de-sac access road.

Planning permission was granted on the appeal site and the adjoining site to the south for seven houses on foot of both Reg. Ref. 15/178 and Reg. Ref.04/1140 / PL14.212172. Only one dwelling has been constructed to date. This dwelling is located to the south west of the appeal site and comprises a dormer dwelling with single storey attached garage to the side (the appellant's property).

The N55 public road which serves the appeal site is relatively straight, along its site frontage, it is governed by a broken central white line and a right turning lane exists for traffic travelling from the south-west (Athlone direction) into the site. The site access is located outside of the 50 Kph speed limits around the town.

The N55 is served by a footpath along its southern shoulder for approx. 185 m across the 'Cluain Rí' estate frontage. The footpath is not continuous, however, and does not extend to the town edge of Ballymahon.

2.0 Proposed Development

2.1. Proposed change of residential development design previously granted full planning permission under Planning Reference No. PL15/178

- From 6 no. to 9 no. two storey detached type dwelling houses,

- Proposed connection to existing public services and all ancillary site works.

It is contended that the reason for applying for permission for a re-design of PL.15/178 is to reduce the size of the houses which were granted planning permission, in order to meet market demand.

3.0 **Planning Authority Decision**

3.1. **Decision**

Longford County Council Granted planning permission subject to eighteen number conditions. Conditions of note include:

1. ...any relevant conditions of Planning Permission PL04/1140 as they relate to the current site shall be fully complied with in the development.
2. Details of the finishes to be agreed.
3. The front door shall not be white uPVC, or aluminium but, preferably finished in timber, no dry dash external walls finishes. All walls and chimney stacks shall be uniformly finished in either nap plaster, natural stone, wet dash or coloured render...
4. The internal roads layout shall meet the requirements of 'Recommendations for site development works for Housing Areas' DoELG 1998, be designed in accordance with NRA Geometry Haddbook and constructed in accordance with the NRA Specification for Roadworks
7. relates to footpath construction
9. relates to Irish Water standards, conditions, constraints and capacity issues.
- 10 all rear garden depths to be 11 m minimum length from the rear building line of the dwelling.

15. any damage / deterioration caused by construction traffic to the newly surfaced road shall be made good by the developer.

3.2. **Planning Authority Reports**

The report of the area planner can be summarised as follows:

- 3.2.1. The applicant proposes to construct 9 number houses within an existing housing estate on lands zoned as established residential. As the proposed development is, in general, in accordance with the policies and objectives of the Longford County Development plan 2015 – 2021 a grant of permission subject to conditions is recommended.

3.3. **Other Technical Reports**

- 3.3.1. Area Engineer: No objection subject to conditions
- 3.3.2. Chief Fire Officer: No objection subject to condition
- 3.3.3. Irish Water: No objection subject to condition
- 3.3.4. Transport Infrastructure Ireland: No objection

3.4. **Third Party Observations**

- 3.4.1. One third party submission received. The issues raised are similar to those raised in the third party appeal and summarised below in this report.

4.0 **Planning History**

- 4.1.1. **Reg. Ref. 15/178** Planning permission granted for the construction of 6 number two storey type dwelling houses of the same design as were previously granted full planning permission by An Bord Pleanála on sites 1 – 6 inclusive under Planning Reference number PL14.212172.

Condition 1 states: 'The development shall be carried out in its entirety in accordance with the plans, particulars and specifications lodged as part of the application, save as may be required by the other conditions attached hereto. Any relevant conditions of Planning Permission PL04/1140 as they relate to the current site shall be fully complied with in the development'.

4.1.2. **PL14.212172 / Reg. Ref. 04/1140** Permission Granted for demolition of house and construction of 153 no. houses, 10 no. apartments, shop and crèche. Conditions of relevance include:

2. No residential unit shall be occupied until all measures contained in the Road Safety Audit received by the planning authority on the 17th day of February, 2005 and the proposed road improvement works incorporating a right turning lane along the N55 are completed, unless otherwise agreed in writing by the planning authority.

3. A footpath shall be provided along the public road connecting the site to the centre of Ballymahon. Details to show compliance with this condition shall be submitted to the planning authority for written agreement prior to commencement of development. No house in the proposed development shall be occupied until the footpath is available for use to the satisfaction of the planning authority.

12. The proposed mixed-use block accommodating the apartments, shop and crèche shall be omitted from the proposed development. A new planning application shall be submitted providing for a crèche and any ancillary development at this location. The crèche shall be completed and operational prior to the occupation of any dwelling in the second phase of the proposed development.

13. Prior to commencement of development, a phasing programme for the proposed development shall be submitted for agreement to the planning authority. Phase 1 shall incorporate fifty per cent of the permitted dwellings and phase 2 shall incorporate the remaining fifty per cent of the permitted dwellings.

4.1.3. **PL14.124291 / Reg. Ref. 00/658** – Permission refused by the Board in 2001 for 253 houses, crèche and retail unit on a site which incorporated the current appeal site. The three reasons for refusal referred to its excessive scale, contravention of County Development Plan’s settlement strategy, prematurity pending final adoption of plan for the town, promotion of long distance commuting and traffic hazard on a National Secondary Road where the maximum speed limit applies.

4.1.4. **PL14. 120657/ Reg. Ref. 99/674** – Permission refused by the Board in 2000 for 253 houses, crèche and retail unit on a site which incorporated the current appeal site. The two reasons for refusal referred to prematurity pending completion of a plan for the town, and traffic hazard on a National Secondary Road where the 60mph speed limit applies.

5.0 **Policy Context**

- Quality Housing for Sustainable Communities DoEHLG Best Practice Guidelines 2007
- Sustainable Residential Development Guidelines for Planning Authorities 2009
- Design Manual for Urban Roads and Streets (DMURS) 2013

6.0 **Development Plan**

The appeal site is zoned established residential in the Longford County Development Plan 2015 – 2021

The following section of the Longford County Development Plan 2015 – 2021 are of relevance:

Section 3.2.1.1 Designated Settlements Requirements and Standards for Development

HOU DS 5: Design Standards

HOU DS 6: Layout and Density

7.0 The Appeal

7.1. The grounds of appeal can be summarised as follows:

Contravention of the County Development Plan

- Rear gardens of only 10m in depth is substandard. CDP requirement for 11m depth of rear garden.
- No public green area associated with the proposed houses
- Lack of Public Open Space

Contravention of Condition 10 of Planning Permission Reg. Ref. 16/96

- Condition 10 requires all rear gardens to be 11 m in depth
- Moving the building line forward one meter would give rise to the building line established by the Nally residence (3rd party) being broken

Fire Risk

- Distance of 1 m between the houses and to the boundary is insufficient and a fire risk
- Contravention of Part B of the Building Regulations, fire hazard as a result of unsafe separation distances
- Houses packed on to the site

Contravention of Parent Planning Permission

- Permission was granted for 153 houses and 10 number apartments and a crèche on the 10th November 2005 by An Bord Pleanála (PL14.212172 / Reg. Ref. 04/1140) Condition 1 of this permission has not been complied with.
- This site has not been taken in charge because of the breaches of permission granted by An Bord Pleanála.

- The footpath leading into Ballymahon has not been completed
- No public lighting for the cycleway has been provided
- No public lighting on the N55 from Ballymahon to the Cluain Rí development
- Condition 11 requiring a landscaped plan has not been complied with
- Condition 4 with respect to the road layout and finish has not been complied with.
- The new owners of the site cannot legally comply with the conditions of the parent permission, as the site is outside of this development.
- It is unfair to the owners of the remaining houses in this original development for the developer or his agents to sell off sites individually, with no onus or responsibility to comply with the parent permission.
- The red line in question on the site maps should go around the entire estate.

Traffic hazard

- No Road Safety Audit (RSA)
- Road entrance does not comply with NRA requirements
- The funding and the bond which is in place is not sufficient to carry out the remaining works that would be needed to be carried out under Condition 1 of Reg. Ref. 04/1140

Taking In Charge

- Roads and services have been taken in charge by Longford Council
- Public Open Space has not been taken in charge

Legal Entitlement

- No letters on file from the original developer stating that he gave permission to utilise the public green and the connection to the existing services
- No letters on file giving right of way or access to this development from the original parent permission

Validity of the Application

- The site is outlined in red and blue on the application, there are conditions attached to the notification of decision to grant permission Reg. Ref. 16/96 which required conditions of the previous permission PL04/1140 to be complied with.

Appeal accompanied with:

- Letter of Objection submitted to the planning authority
- Photographs
- Copy of submitted plans and drawings pertaining to the subject appeal proposal and the parent permission Reg. Ref. 04/1140
- Excerpt of conditions attached to the parent permission Reg. Ref. 04/1140

7.2. Planning Authority Response

No new points/issues raised.

7.3. Other Party Responses

7.3.1. A response has been received from Cunningham Design and Planning on behalf of the first party, Patrick J. and Margaret Cunningham. It is summarised as follows:

Planning History

- Under PL14.212172 / Reg. Ref. 04/1140 permission was granted for 153 dwelling houses, a crèche and ancillary development.
- The permitted development was not completed in full and only 45 dwelling houses were completed when the economic down turn occurred.
- The proposed shop and crèche were not constructed.
- Under PL15/178 permission was granted by Longford County Council for the construction of 6 no. two storey detached dwelling houses on the subject site. These 6 no. dwellings were of the same design and location as the dwelling houses granted planning permission under PL14.212172.

Zoning

- The appeal site is zoned Residential

Ownership

- The applicants are the full owners of the appeal site.

Planning Permission PL15/178

- 6 number houses granted planning permission on the appeal site are all 1996 square foot in size and too large for the short to medium term residential market.
- The construction cost of these dwellings would exceed the current market value.

- Proposed to reduce the floor area and apply for 9 no. four bedroom detached dwellings of 1559 square foot in size.

Open Space

- In excess of 15% of the overall site area has been provided as green open space.
- 3 number areas of useable open space provided within the development 'as built'.

Rear Gardens and Building Line

- All dwellings will have a rear garden depth of 14.3 m with the exception of where the proposed utility room is provided to the rear, it then being reduced to 10m.
- 141 sq. m of garden area is proposed to the rear of dwellings.
- The applicants are willing to accept a condition that the houses be redesigned in either of the following two options, so as to maintain the existing building line with the appellants dwelling and provide a minimum depth of 11m rear gardens through the proposed scheme:
 - Reduce the depth of proposed utility room by 1m from 4m. This would increase the rear garden depth from 10m to 11m
 - Remove the proposed utility room from the rear of the proposed dwellings and relocate same to the front left hand corner where the study / office was originally located.

Fire Regulations

- Proposed development complies with Part B of the Building Regulations

Taking In Charge

- The housing estate known as 'Cluian Ri' in which this proposed development is located has been taken in charge by Longford County Council.
- All services such as watermain, foul sewer, surface water and public lighting which serve the estate have been carried out by a contractor appointed and overseen by Longford County Council.

Traffic Safety

- As the council have taken the estate in charge, it is submitted that the local authority, having granted planning permission for the proposal, is satisfied with the layout of the internal road network.
- There is no need to construct the island at the junction of the estate road and the N55 as permitted under the parent permission PL14.212172.
- The applicant is prepared to accept a condition that the development contributions as outlined under condition 18 of PL16/96 be increased so as to provide additional funding to construct this traffic island or alternatively accept a new condition of planning permission that the applicants must construct this island prior to the occupation of any of the proposed dwelling houses.

Infrastructure

- There is capacity in the public sewer to cater for the proposed development. This has been confirmed by Longford County Council.
- Longford County Council instructed the contractor who carried out the works required prior to the estate being taken in charge to install 6 no. foul sewer and surface water connections to service the previously permitted six number sites granted on foot of PL14.212172.
- Only three new foul and surface water sewer connections are required.

- The applicant is willing to accept a condition that any damage caused to the existing footpath or estate road in order to make the three new connections be reinstated to the satisfaction of the Council and that an adequate bond is conditioned to cover these works.
- Response accompanied with:
 - Appendix A – Copy of Appeal & Objection by appellant Tracey Nally
 - Appendix B – Copy of Grant of Permission PL14.212172, Copy of site plan Drawing No. A1-PA-0001 and copy of House type K (plan and elevation) Drawing No. PA-0200 (K)
 - Appendix C - Planning Report in respect of PL15/178 and notification of decision to grant planning permission, Site Layout Plan – Boundary Treatment Layout, House Type A (Sites 01, 02,04 & 06), House Type B (Sites 03 & 05)
 - Appendix D - Planning Report in respect of PL16/96 and notification of decision to grant planning permission, Site Layout Plan – Boundary Treatment Layout, House Type A (Sites 1, 2, 3, 3A & 4), House Type B (Sites 4A, 5, 5A & 6)
 - Appendix E – Ballymahon Zoning Map CDP 2015 – 2021
 - Appendix F – Land Registry Information in respect of Folio 17983F pertaining to the appeal site.
 - Appendix G – letter from Dalton Auctioneering
 - Appendix H – Site Layout Plan – Boundary Treatment Layout ‘as built’. Green Open Space Areas A, B and C delineated.
 - Appendix J

- Option 1 Site Layout Plan – Boundary Treatment Layout Drg. No. 02, & Option 1 House Type A, & Option 1 House Type B
- Option 2 Site Layout Plan – Boundary Treatment Layout Drg. No.01, & Option 2 House Type A & Option 2 House Type B
- Appendix K – Letter from Longford County Council dated 4th August 2016 confirming that ‘Cluain Rí’ estate has been taken in charge since 31st July 2014
- Appendix L - Site Layout Plan –Services Layout, Drg. No. 02 indicating 6 no. meters to service 6 no. dwelling houses
- Photographs of man hole covers 1 – 6

7.4. Further Responses

7.4.1. A response to the first party response was received from Tracey Nally. It is summarised as follows:

- There is no under supply of 4 bedroom detached family homes in the Ballymahon area.
- Four, 3 – 4 bedroom houses are currently lying empty in the Cluain Rí Estate
- There is a strong market for large detached houses of a certain size, with sufficient green space for a family
- The open space area referred to as open space A is partially occupied by gas storage tanks, covered by shrubs
- Services in-situ were designed for six houses and not nine additional houses.

8.0 **Assessment**

8.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- **Principle of the Development and Compliance with Policy**
- **Contravention of the Parent Permission**
- **Access and Traffic Safety**
- **Wastewater Treatment and Water Supply**
- **Miscellaneous Matters**
- **Appropriate Assessment**

8.1.1. **Principle of the Development and Compliance with Policy**

The subject appeal seeks amendments to previously permitted planning permission Reg. Ref. PL15/178 on foot of which permission was granted for the development of six number dwellings within the 'Cluain Rí' residential estate, located within the development envelope of Ballymahon town on lands zoned 'established residential' in the 'Ballymahon Zoning Map' as per the Longford County Development Plan 2015 – 2021.

Ballymahon is identified as a 'Tier 4' 'Local Service Town' and an established town within the County in the County Development Plan. It has an important role in the provision of local level retailing, social and leisure functions and local services to the wider rural hinterland. Emphasis is placed on the maintenance and consolidation of growth in the town in line with its position in the Settlement Hierarchy

The applicant submits that the reason for applying for permission for a re-design of the initial proposal from six number dwellings to nine number dwellings is to reduce the size of the original houses, which were granted planning permission under

PL.15/178. It is contended that permitted houses of 183 sq. m are too large for the current market and the site would be best served with nine number smaller dwellings with a total floor area of 145 sq. m

I note that the six number two storey dwellings granted planning permission on foot of Reg. Ref. 15/178 were two storey houses of the same design and layout as was previously granted planning permission by An Bord Pleanála on foot of PL14.212172, (in 2005) see planning history section of this report above.

Regard being had to the nature and scale of the proposed development, to the existing and permitted pattern of development in the vicinity of the site and the residential zoning of the site, it is considered that the principle of the proposed development is acceptable.

The third party has raised concern with respect to the increased density, rear garden depth and public open space proposed. It is submitted rear garden depth proposed is substandard and that omission of any public open space to serve the proposed dwellings is contrary to County Development Plan requirements.

With respect to private rear garden depth, open space and density Section 3.2.1.1 Designated Settlements Requirements and Standards for Development set out in the Longford County Development Plan 2015 – 2021 states:

HOU DS 5: Design Standards

(f) 'Private open space to the rear of dwellings shall be provided at a minimum of 11metres in length, extending for at least the width of the dwelling unit... This private open space requirement may, in exceptional circumstances, be reduced in town and village centres and areas of higher residential densities where a satisfactory public open space/recreational, congregational area is provided'.

HOU DS 6: Layout and Density

(b) Generally, density should reflect the existing and traditional character of the settlement. In line with the "Sustainable Residential Development in Urban Areas:

Guidelines for Planning Authorities” (DoEHLG, 2008) or any subsequent update, higher densities shall be permitted in urban and town centres, particularly in areas with close proximity to rail lines and other modes of public transport. In all other cases, the density of developments will be assessed on a site by site basis...’

The density of the proposed development taking the site area of 0.326 ha equates to 27.6 units per ha. Regard is had, however, that the proposal seeks an amendment to previously permitted planning permission on an overall site of some 7.75 ha and that essentially the appeal site forms part of the overall Cluain Rí residential estate which incorporates two public open space areas and 45 existing houses. Taken in its context the proposal represents low density suburban housing.

There are two types of dwelling house proposed House type A (sites 1, 2, 3, 3a & 4) and House Type B (sites 4a, 5, 5a & 6). Type B is a mirror image of Type A. The site layout plan submitted with the proposed development indicates a rear garden depth of 14.3 m – 10 m regard being had to the utility extension proposed to the rear of each house. By way of submission to the Board the first party has made two suggestions to achieve the requirement of 11m to the rear of each dwelling for its full width. Either reduce the utility annex by 1m or alternatively relocate the utility to the area currently proposed as study / office.

The third party submits that, an alternative scenario, of relocating the building line westwards by 1m would have a knock on impact and would break the building line established by the third party's existing dwelling located to the south west of the appeal site. I do not agree and consider that moving the nine number proposed dwellings by 1 m to the west to provide a minimum length of 11m for the full width of each garden, in accordance with policy, is the most desirable solution and would not break any established building line. The appellants detached dwelling is located on a large corner site and is off a different design to the proposed dwellings. I see no visual impediment to moving the proposed dwelling west by 1 m.

Given the current housing shortage, issues surrounding purchasing finance and build finance I am of the opinion that sufficient justification has been put forward for the slight increase in density proposed and the reduced floor area. Regard is had that

the nine number two storey dwellings proposed are all four bedroom, substantially sized (145 sq. m), detached dwellings on individual sites. All rear gardens are in excess of 140 sq. m.

Having regard to the planning history of the subject site, to existing quantum and configuration of public open space provision within the Cluain Ri estate of which the appeal site forms part of, it is considered that the requirement for an additional 15% public open space does not arise. I note the first party submission that in excess of 15% of the overall site area has been provided as green open space. From my site visit it is evident that the appeal site would be served by in-situ landscaped useable open space.

The layout and design generally reflects the existing character of the settlement. The proposal seeks to increase the number of residential units by 3 it does not impinge upon existing and permitted open space areas within the Cluain Rí estate. Overall I consider that the proposed development complies with County Development Plan policy with respect to designated settlements requirements and standards for development.

8.1.2. **Contravention of Parent Planning Permission**

The third party has concern that the existing Cluain Rí estate has not been finished in accordance with the conditions of the parent permission PL14.212172 / Reg. Ref. 04/1140. In particular, that the footpath leading into Ballymahon has not been completed. No public lighting for the cycleway has been provided. No public lighting on the N55 from Ballymahon to the Cluain Rí development has been provided. A landscaped plan was not carried out and the required road layout and finish has not been complied with. Concern is also raised that the applicant in the subject appeal case cannot legally comply with the conditions of the parent permission, as the site is outside of this development.

I have had regard to the conditions attached to the parent permission PL14.212172 / Reg. Ref. 04/1140. See section 4.1.2 of this report. I note condition no. 3 which

requires that a footpath be provided along the public road connecting the site to the centre of Ballymahon. Details to be agreed with the planning authority and that no house should be occupied until the footpath is available for use. The intention of the condition is somewhat ambiguous as a footpath has been constructed for the full length of the public road leading to the town of Ballymahon for the full length of the site frontage of the Cluain Rí estate, however, it does not connect to footpaths within the town limits, outside of the control of the applicant or the developer of the existing Cluain Rí Estate.

The planning authority have sole responsibility for enforcement and it is not a function of An Bord Pleanála. It would appear that the planning authority are satisfied that the intentions of condition 3 and other such conditions have been complied with. Regard is also had that only 45 houses of 153 permitted houses were constructed, as per PL14.212172 / Reg. Ref. 04/1140 and that a subsequent grant of planning permission Reg. Ref. 15/178, which includes the subject appeal lands, supersedes the parent permission.

The planning authority have taken the estate in charge and remedial works, specified by the local authority, were carried out by a specialist contractor. The planning authority appear satisfied that the estate, has been constructed to a satisfactory standard.

Regard being had to the planning history and conditions attached to the notification of decision to grant planning permission Reg. Ref. 16/96 (subject permission) and Reg. Ref. 15/178, in particular that *'any relevant conditions of planning permission PL04/1140 as they relate to the current site shall be fully complied with in the development'*. This condition is vague and ambiguous, it would in my opinion be difficult to enforce and therefore I recommend it not be included in conditions of any grant of planning permission forthcoming from the Board. There is an extant live permission on the appeal site and the estate has been taken in charge by the planning authority, it is considered that the development as proposed is acceptable in principle.

In accordance with Section 34(13) of the Planning and Development Act 2000, 'a person shall not be entitled solely by reason of a permission under this section to carry out any development', it is the responsibility of the applicant / developer to ensure that the development is carried out in accordance with conditions attached to the permission and that they have legal entitlement to carry out the development. The applicant has indicated sufficient legal interest in the site, by way of land registry documentation, for the purposes of applying for planning permission. Overall enforcement and legal title are not issues which An Bord Pleanála has jurisdiction over.

8.1.3. Access and Traffic Safety

Concern has been raised that the entrance does not comply with conditions attached to the parent permission and or NRA requirements and that a RSA was not carried out. Again I note that the parent permission has been superseded by the extant permission Reg. Ref. 15/178

As addressed in the foregoing section of this report, roads and services have been taken in charge by Longford County Council. Transportation Infrastructure Ireland and the area engineer have raised no objection to the proposal. From condition 2 of PL14.212172 it is evident that a RSA was carried out in 2005. From my site visit it is evident that a right turning lane has been constructed on the N55 in accordance with this condition, however, a traffic island has not been constructed at the entrance to the estate.

The first party is willing to accept a condition that the development contributions be increased so as to provide additional funding to construct this traffic island or alternatively would accept a new condition that the applicants / developer be required to construct this island prior to the occupation of any of the proposed dwelling houses.

The first party is also willing to accept a condition that any damage caused to the existing footpath or estate road shall be made good to the satisfaction of the Council

and have no objection that an adequate bond is in place by way of condition to cover these works.

The proposed development is for nine number dwelling houses and increase of three units, only, from that already permitted on the appeal site. From my site visit I am of the opinion that the access as constructed, is acceptable. Required sightlines at the entrance are achievable and the entrance was not heavily trafficked.

Condition no. 17 of the notification of decision to grant permission requires a bond of €90,000 to ensure satisfactory completion of the development. I am of the opinion that should the Board agree that permission should be forthcoming that a condition requiring a Bond be reattached to any decision to grant planning permission.

Overall I see no justifiable reason to refuse planning permission on traffic safety grounds.

8.1.4. Wastewater Treatment and Water Supply

The applicant proposes to connect to a public water supply and a public wastewater treatment system. There is capacity in the public sewer to cater for the proposed development. This has been confirmed by Longford County Council. Irish water have no objection to the proposed development.

I see no justifiable reason to recommend a refusal of planning permission based upon the proposed development being prejudicial to public health.

8.1.5. Miscellaneous Matters

The matter of fire risk has been raised by the third party.

The applicant submits that the proposed development complies with Part B of the Building Regulations.

I note the report on file from the Chief Fire Officer, which indicates that a commencement notice is required in respect of the proposed works.

Overall I see no obstacle to granting planning permission in the subject instance, fire safety and compliance with building regulations is governed separately under the Building Control Regulations, 1997, S.I. No. 496 of 1997.

8.2. **Appropriate Assessment (AA)**

The planning authority report states: *'the proposed development is not located within any Natural Heritage Area, SAC, SPA or Broad zone.'*

I note that the subject appeal site is not within any designated site. The site comprises an infill, zoned serviced site located within the development envelope of Ballymahon town. The proposed development is for amendments to an existing permission on the overall lands.

Overall I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

9.0 **Recommendation**

9.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

10.0 **Reasons and Considerations**

10.1.1. Having regard to the nature and scale of the proposed development, to the existing and permitted pattern of development in the vicinity of the site and to the residential zoning of the site, that, subject to compliance with the conditions set out below, the proposed development, would not seriously injure the amenities of the area, would not adversely affect the character of the area, would be acceptable in terms of public and private open space, access and traffic safety and would not, therefore, be contrary to the proper planning and sustainable development of the area.

11.0 **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. That this permission authorises nine number residential units, only.

Reason: In the interests of clarity.

3. Prior to commencement of any development on site the applicant shall submit details of the following for the written agreement of the planning authority:

a) All site rear gardens shall be provided having a minimum length of 11m from the rear building line of the dwellings to which they relate.

b) Dwellings 1, 2, 3, 3a, 4, 4a, 5, 5a and 6 shall be moved 1m westwards to facilitate 11m depth rear garden.

Reason: In the interest of visual and residential amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only. The brick colour to be used shall be the same as that used in the existing development at Cluain Rí.

Reason: In the interest of visual amenity

5. All bathroom/ en suite windows shall be fitted and permanently maintained with obscure glass.

Reason: In the interests of residential amenity

6. No residential unit shall be occupied until all the services have been connected thereto and are operational.

Reason: In the interest of the proper planning and development of the area

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. a) All foul sewage and soiled water shall be discharged to the public foul sewer.
(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

Reason: In the interest of public health

9. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed standards of the planning authority for such works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

10. Any damage / deterioration caused by construction traffic to the newly surfaced access road shall be made good by the developer to the satisfaction of the planning authority.

Reason: In the interest of road safety.

11. The development hereby permitted shall be carried out and completed at least to the construction standards set out in "Recommendations for Site Development Works for Housing Areas" issued by the Department of the Environment and Local Government in November 1998.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

12. That all public services to the proposed development, including electrical, telephone cables and associated equipment be located underground throughout the entire site.

Reason: In the interest of amenity

13. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

14. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on

Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

15. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Fiona Fair
Planning Inspector
20.10.2016