



An
Bord
Pleanála

Inspector's Report PL25M.248594

Development	Change of house design for 34 houses and revisions to site layout plan granted under 12/5077 and permission for construction of 11 houses and all associated site works.
Location	Coill Rua, Greenpark West, Ballymahon Road, Mullingar, County Westmeath.
Planning Authority	Westmeath County Council.
Planning Authority Reg. Ref.	16/6133.
Applicant	Rayjay Abodes Limited.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party v. Grant
Appellant	Paul Heduan.
Observers	None.
Date of Site Inspection	30 th August, 2017.
Inspector	Paul Caprani.

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1.0 Introduction

PL 25M. 248594 relates to a third party appeal against the decision by Westmeath Co Council to grant planning permission for the redesign of 34 dwellings which previously had the benefit of planning permission under the parent application Reg. Ref. 12/5077 and the construction of an additional 11 dwellings. It is argued that in granting planning permission, the Planning Authority have not adhered to its own development plan standards or the DMUR Guidelines in assessing the application.

2.0 Site Location and Description

- 2.1. The appeal site is located on the western environs of Mullingar Town approximately 3 kilometres west of the town centre. It is located on the northern side of the Ballymahon Road (R392). The subject site is irregularly shaped and, is located alongside a more recently constructed earlier phase suburban residential development along the eastern boundary of the site, closer to the town centre. The site has a stated area of 1.8 hectares. It is bounded to the east and north-east by existing suburban residential development. Larger individual detached dwellinghouses on rectangular plots run along the southern boundary of the site facing directly onto the Ballymount Road. There is a small strip of land providing access from the development site to the Ballymahon Road located between two of the aforementioned dwellings. Lands to the west and north-west of the subject site are currently undeveloped. As such the subject site would form the western limit of the built-up area of the western environs of Mullingar.
- 2.2. The site itself is currently undeveloped and overgrown. However, the foundations of a number of buildings are evident on the subject site particularly near the southern boundary of the site. It appears therefore that proprietary site works were undertaken under a previous permission but were never completed.

3.0 Proposed Development

- 3.1. Planning permission is sought for the redesign of 34 dwellings which previously had the benefit of planning permission under the parent application Reg. Ref. 12/5077 and the construction of an additional 11 dwellings under the current application. The basic configuration of the layout involves the placing of the dwellinghouses around the perimeter of the site and facing inwards towards central areas of open space.
- 3.2. Along the northern boundary of the site it is proposed to construct 10 semi-detached and 1 detached dwelling which face southwards towards an area of public open space (House Nos. 40 to 52).
- 3.3. An additional 12 houses set out as semi-detached dwellings are to back onto the north-western boundary and face south-eastwards towards the central areas of open space (House Nos. 53 to 64).
- 3.4. In the south-western corner of the site it is proposed to provide an additional 8 semi-detached dwellings facing eastwards. 5 pairs of semi-detached dwellings back onto the eastern boundary of the site and face westwards towards the internal access road which traverses the centre of the site (House Nos. 78 to 87).
- 3.5. Finally, it is proposed to construct a pair of semi-detached dwellings to the immediate north of No. 72 Greenpark West, already been constructed as part of the adjoining development.
- 3.6. In terms of access arrangements, it is proposed to extend two of the internal access roads which serve the existing housing development to the east. The internal access road serving the development to the east links up with the Ballymahon Road to the south east. It is proposed to utilise this access of the Ballymahon Road to serve the current development.
- 3.7. The access road which ends in a cul-de-sac to the south of No. 77 is to be extended westwards before running in a north-south direction serving House Nos. 87 to 95. It is also proposed to extend the access road which serves the existing dwellinghouses between Nos. 30 and 39 and Nos. 72 and 77 Greenpark West. The road will continue northwards to serve House Nos. 40 to 52 of the new development. The access road will then turn southwards to serve the dwellings along the north-western

boundary of the site Nos. 53 to 64. The two extended access roads link up internally within the scheme.

- 3.8. In terms of public open space, three areas of public open space are provided. The largest area is located in the southern portion of the site to the south of House Nos. 77 to 78 and it is located contiguous to the southern boundary of the site. It has a total area of 1,880 square metres. A triangular section of open space is located to the immediate north of House No. 70 and 87. This area of open space is overlooked by the houses along the northern and north-western boundary of the site. A smaller area of open space is located centrally within the scheme and is overlooked directly by House Nos. 82 to 87 and House Nos. 58 to 64.
- 3.9. Three house types are proposed. 30 of the dwellinghouses comprise of two-storey four-bedroomed houses with a gross floor area of 103.5 square metres. The dwellings incorporate recessed front entrances and a two-storey A-shaped gable on the front elevation.
- 3.10. House Type B are likewise two-storey but incorporate a more modest floor area at 90 square metres. These comprise of rectangular shaped houses with three bedrooms at first floor level. House Nos. 40 and 41 and House Nos. 70 to 78.
- 3.11. A single House Type C is proposed at the northern corner of the site. It comprises of a square shaped detached two-storey dwelling with four bedrooms at first floor level. It is a total floor area of 124 square metres.
- 3.12. Each dwellinghouse incorporates two off-street car parking spaces. On-street car parking spaces are also provided in two lay-bys located adjacent to the open space areas. A total of 8 spaces are provided in these areas.
- 3.13. In terms of a private open space each of the dwellings incorporate small incidental areas of private open space within the curtilage at the front of the house. The majority of rear gardens are 10 to 12 metres in depth and incorporate private open space areas ranging from 60 square metres up to 250 square metres in the case of corner sites.

4.0 **Planning Authority's Decision**

4.1. **Decision**

Westmeath County Council issued notification to grant planning permission on the 2nd day of May, 2017 subject to 15 conditions.

4.2. **Documentation Submitted**

4.2.1. The application was submitted on 13th May, 2016. It was accompanied by a planning application form, a covering letter and associated drawings.

4.2.2. The covering letter states that the development will take place in three phases and construction access for the three phases will be via the entrance strip on the southern boundary of the site at the Ballymahon Road. The existing road serving the adjoining development will be used when the estate is occupied but will not be used for construction access. It is also confirmed that the proposal will involve the reallocation of ESB lines. It is stated that the proposed layout complies with the minimum requirements in relation to privacy, overlooking and public open space provision. Finally, in relation to Part V, it is stated that the applicant proposes to allocate 4 three-bedroomed units to the Planning Authority with the actual dwellings to be agreed with the Council.

4.3. **Observations**

4.3.1. Numerous letters of objection were submitted primarily from residents living in the vicinity. The letters raised concerns in relation to the size and scale of the proposal, the traffic implication arising from the development and general impacts on residential amenity.

4.4. **Local Authority Reports**

4.4.1. A report from the Area Engineer which specifically deals with roads and water issues states that there is no objection to the proposal subject to conditions.

4.5. **Additional Information Request**

4.5.1. The original planning report considers the principle of the development to be acceptable having regard to the residential zoning objective for the site and goes on to assess the development in the context of development control standards. It was concluded that further information is required in relation to the following issues.

- Further details in relation to the location of site notices erected.
- Make arrangements for access for a site visit by the planning office.
- Supply design statement with regard to the layout of the estate and the design of dwellings.
- Supply street scene elevations and cross-sections from existing dwellings.
- Supply details of a right of way along the rear boundary.
- Further details in relation to open space.
- Provide a quality audit as required per Section 5.4.2 of DMURS.
- Provide an ecological assessment of wildlife habitats along the drain/watercourse along the north-eastern boundary of the site. In the event that the drain/watercourse is not of ecological importance please indicate your willingness to pipe the surface water drain on the western side of the site.
- Please provide a flood risk assessment for the small portion of the site that may be subject to pluvial flooding.
- The final section of the additional information request specifically deals with detailed design aspects associated with the layout which the applicant is requested to address.

4.6. **Additional Information Response**

4.6.1. Additional information was submitted on behalf of the applicant on the 5th April, 2017 and is briefly summarised below.

4.6.2. It is stated that site notices were erected in accordance with legislation.

- A design statement is enclosed which incorporates a new layout and new house types. (See section 3 above on Proposed Development where design and house types as per the additional information submission have been described).
- Sections through the site between existing and proposed dwellings have also been submitted.
- Revised site layout plans showing the right of way to the rear boundary are also indicated in yellow in the site location plan submitted.
- Details of open space provision in the new layout was also set out. 18.1% of the site is dedicated to public open space.
- A quality audit was carried out to ensure compliance with DMURS. A total of four recommendations are made in the report.
- An ecological impact assessment along the drain and watercourse situated at the western boundary of the site is set out. It is stated that the existing drainage ditches are not in themselves habitats of high conservation interest. It does note that the drain provides habitats for a range of aquatic and terrestrial plants and animals. However, no species protected under the Wildlife Act or species listed in Annex II or IV or the Habitats Directive were present or are likely to be present. The drain suffers from poor water quality which reduces its value as a habitat. The report recommends that the drain banks be reinforced with gabions. The gabions should be topsoiled and planted with native shrub species.
- There are no proposals to pipe the drain along the western boundary as this drain assists in draining the adjacent agricultural lands.
- The flood risk assessment report does not recommend the piping of the drain as it indicates it will be of little if any benefits. Details of the flood risk assessment is attached.
- The final section of the additional information addresses the Planning Authority's concerns in relation to the detailed design aspects of the proposed development. It is contended that the revised layout satisfactorily addresses these concerns.

4.7. Further Assessment by the Planning Authority

- 4.7.1. A number of further letters of objections were submitted by residents in the vicinity the contents of which have been read and noted.
- 4.7.2. A report from the Westmeath Community Childcare Facility notes that the development does not include a childcare facility as proposed in previous versions of the plans. Given the size of the total estate and the close proximity of schools there is a requirement for the developer to provide childcare services.
- 4.7.3. A final planning report was prepared on foot of the additional information submitted. It assesses the additional information submitted and concludes that the proposed development is acceptable and in accordance with development plan standards and it is therefore recommended that planning permission be granted for the proposed development. In its decision dated 2nd May, 2017, Westmeath County Council issued notification to grant planning permission for the proposed development subject to 15 conditions.

5.0 Planning History

- 5.1. One history file is attached under PL25.241478. The decision of Westmeath County Council to grant planning permission for 36 dwellings on the subject site was the subject of a first party appeal against a number of financial contribution conditions. The Board in its decision dated 12th May, 2013 revised the financial contribution conditions attached.
- 5.2. Further details of relevant planning history associated with the site and its surroundings are set out in the local authority planning report. These are briefly set out below.

Under Reg. Ref. 12/5077 (see above PL25.241478) planning permission was granted to construct 36 residential dwellings (as previously granted by the Planning Authority and by the Board under Reg. Ref. 04/5642 and PL25M.213665 respectively). Planning permission was granted by Westmeath County Council on 4th December, 2012.

Under Reg. Ref. 04/5642 planning permission was granted on the subject site for 51 houses and 8 apartments.

Under Reg. Ref. 02/1255 planning permission was granted for 51 houses on the subject site.

- 5.3. The planner's report also notes that an enforcement issue was also issued in respect of compliance with conditions namely giving an estate an unauthorised name. Details of planning applications in respect of adjacent sites to the north and to the immediate west are also set out in the planner's report.

6.0 Grounds of Appeal

- 6.1. The decision of Westmeath County Council to issue notification to grant planning permission was the subject of a third party appeal by Coill Rua Residents Association, residents of the adjacent estate. The grounds of appeal are outlined below.

- There are safety concerns as a result of the intensification of traffic which will result from the proposed development.
- The appeal also argues that the Planning Authority has not sufficiently interpreted the recommendations made in the Design Manual for Urban Roads and Streets (DMURS) Quality Audit Report submitted by way of additional information.
- The configuration of the junction between Coill Rua Housing Estate (Greenpark Housing Estate) and the Regional Road R392 is wholly inadequate to deal with any extra traffic. This junction is already accommodating a substantial volume of traffic catering for the 350 houses from the larger Greenpark Meadows Estate to the east of the site. An additional 45 houses will add a very significant risk to traffic and pedestrians entering the estate. There was a flagrant disregard for the 50 km speed limit on this section of road.
- In Condition No. 11 of the Council's planning approval a special contribution fee of €37,375 is required to develop a roundabout at the junction of the R390/R392 (Regional Road junction to the east of the subject entrance). It is argued that this will do nothing to improve safety concerns at the access point.
- The Centre Parcs Development recently granted by Longford County Council will access the regional road in question and when built, will significantly increase

traffic volumes along this section of road. There are currently no public transport options provided along this route.

- The proposal will give rise to at least an additional 88 cars as a result of the proposed development using the existing access.
- Should the Board consider it appropriate to grant planning permission the appellants are requesting that the developer should contribute towards significant improvements on the road including traffic calming measures and improvement works to be carried out on the junction onto the R392. The Board are also seeking a request for a specific contribution from the developer to develop additional internal road calming measures on the main artery of the Coill Rua Estate which serves the proposed development. It is suggested that horizontal and vertical deflections as set out in DMURS would be a suitable option (see Appendix 1).
- As part of the proposed development it is noted that the construction access is to be taken off an alternative slip road further west along the site. It is requested that this access be upgraded to full vehicular access point thus reducing the impact of the development at the existing junction to the south-east. Its proposed use as a pedestrian access when the scheme becomes operational will result in an unsupervised area where anti-social behaviour will occur.
- It is also argued that the applicant has not submitted correct details in relation to landownership and for this reason the entire application should have been deemed invalid.
- It is suggested that throughout the entire scheme only two houses are suitable to meet the requirements of social and affordable housing as other houses are deemed to be of too high a specification or are not in accordance with the requirements of the Departmental Guidelines in relation to “Quality Housing for Sustainable Communities”. It is considered that a grant of planning permission in this instance is somewhat premature as the developer will not be able to fill his obligations in meeting Part V of the Planning and Development Regulations.
- The proposal to incorporate gabion walls to the rear of House Nos. 54 to 65 (in the north-western boundary of the site) will result in the ground levels of these gardens being raised by almost 2 metres and this would have a significant scar

on the landscape. The construction works around the open drain will also have a significant impact on the flora and fauna and natural habitat along this drain.

- There is also no indication as to whether or not the gabion walls will result in reduced garden sizes.
- Reference is also made to the right of way and it is stated that this was not disclosed in the planning documents submitted therefore the validity of the application is further called into question. The presence of this apparent right of way calls into question the legal rights of the developer to carry out the works in the vicinity.
- It is also argued that Condition No. 2(b) which requires the access road to be extended to the site boundary (to avoid a ransom strip) is unworkable.
- Reference is also made to Condition 2(a) where the Planning Authority have requested that Units 78 to 87 be moved further west to achieve a 22 metre minimum separation distance without moving the road network. It is contended that the consequences of such changes may not be fully apparent particularly in light of recommendation no. 2 of the DMURS Quality Audit.
- It is further noted that the Planning Authority is willing to allow a public footpath of 1 metre in width which is contrary to Department Guidelines. The appellants question why permission has been granted with such a condition as it is not in accordance with relevant standards.
- By way of conclusion the appellants state that they are not against the housing development but desire a safe environment for the existing residents to grow up in. It is suggested that the proposal does not comply with development plan standards nor is it in compliance with various Guidelines in relation to housing developments. It is therefore recommended that the application be refused in its current format.

7.0 Appeal Responses

Neither the Planning Authority nor the applicant has submitted a response to the grounds of appeal.

8.0 Development Plan Provision

The site is governed by the policies and provisions contained in the Westmeath County Development Plan 2014 – 2020 and the Mullingar Local Area Plan 2014 – 2020. The former plan sets out policies and objectives in relation to housing.

Policy PHS1 seeks to reserve sufficient lands to facilitate and implement the housing strategy and its policies.

Policy PHS6 seeks to ensure the provision of a suitable range of house types and sizes to facilitate the demographic profile of the county.

Policy P-SRD1 seeks to ensure that settlements grow in a manner that is self-sustaining with sufficient social and economic infrastructure and to a scale which aligns with the settlement hierarchy prescribed in the core strategy.

Section 4.8.1 seeks to ensure that in the case of Athlone and Mullingar, the DoEHLG Guidelines for Sustainable Residential Development in Urban Areas promote increased densities in appropriate locations where there is necessary infrastructure, compliance with open and private space, undue impact on amenities are avoided, high quality design is exhibited and the scheme is in keeping with the character of the area.

Policy PLD1 seeks to achieve attractive and sustainable development which is based upon high standards of design, layout and landscaping for new housing development.

PLD2 seeks to determine the layout of new development before or at the same time as the road layout with identified connections to social infrastructure identified.

Roads within housing estates should be overlooked by frontage development.

Chapter 14 sets out details of development plan standards.

In terms of plot ratios, outer suburban sites in close proximity to public transport should accommodate an indicative plot ratio of 0.35 to 0.5. Outer suburban areas remote from public transport should have an indicative plot ratio of 0.25 to 0.35. The normal minimum rear garden space shall not be less than 11 metres in depth. For three, four and five bedroom houses a minimum of 60 to 75 square metres should be provided as private open space. In general, there should be a distance of 22 metres

between opposing rear windows. Public open space in housing estates shall normally be based on a standard of 15% minimum of gross site area.

The subject lands are located at the edge of the Mullingar Town boundary and are zoned for proposed residential use. There are no other specific designations relating to the site.

9.0 **Assessment**

9.1. I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal. I consider the substantive issues in determining the current application and appeal before the Board are as follows:

- Principle of Development
- Traffic Safety Considerations
- Alternative Access
- Traffic Calming Measures
- Non Compliance with DMURS
- Social Housing Provision
- Land Ownership Issues
- Works around the Open Drains to North-Western Boundary of the Site
- Other Issues

9.2. **Principle of Development**

The Board will note from the previous section of my report that the subject site is zoned for residential development. It is therefore an objective of the Planning Authority through its landuse zoning objectives to seek that the subject lands be developed for residential development. The application in this instance fully accords with the development plan objectives for the lands in question. Furthermore, the site in question has been the subject of previous applications for residential development which were granted planning permission. Planning permission was granted most

recently in 2012 for the construction of 36 residential units on the subject site. But previous permission was granted in 2002 and 2004 for residential developments on the subject site. The principle of residential development therefore in my view has already been established on the subject site.

9.3. Traffic Safety Considerations

- 9.3.1. A major concern highlighting the grounds of appeal relates to a traffic and road safety considerations. It is argued that the R392, the regional route which runs to the south of the subject site and serves the wider suburban residential area to the east of the subject site is operating at capacity at present and that the additional dwellings which will utilise the existing junction onto the Ballymahon Road (R392) would result in a significant traffic hazard. The existing junction on the Ballymahon Road is located in the 50kmph speed limit and excellent sightlines are afforded at this location particularly in a westerly direction. On-coming traffic can be seen for a distance of c.400 metres. The junction also incorporates a right-handed stacking lane which allows cars to queue before turning into the existing and proposed residential development. Having inspected the site, I note that traffic levels along the Ballymahon Road are generally light and there is more than ample capacity at this junction to allow for right-hand turns into the estate on a very frequent basis. I do not consider therefore that the junction arrangements at present are in any close to approaching capacity.
- 9.3.2. I further note that there was no objection from the Area Engineer in relation to the principle of utilising the existing junction to accommodate traffic from the proposed development. All comments in relation to roads related to detailed design considerations within the internal layout of the residential development. Having regard to the ample capacity available along this section of the Ballymahon Road, the provision of an additional 44 dwellings would contribute an additional 13% of the amount of traffic currently utilising this junction and such an increase will not impact on the carrying capacity of the road to any material extent. Likewise, the traffic generated by the Centre Parcs development on Longford, c20 km away, would not reasonably in my view constitute a reason to refuse planning permission for the

proposed development on traffic grounds. Much of the Centre Parcs Development will use the N4 National Primary Route.

9.4. Alternative Access

- 9.4.1. The grounds of appeal suggest that the proposed construction access, approximately 250 metres further west, which is located between two existing dwellings might prove to be a more appropriate access during the operational phase. While this access affords similar sightlines in both directions, and these sightlines in my view are more than adequate from a traffic safety perspective, it is inappropriate in my view to encourage the proliferation of entrances onto strategic regional routes. It is more appropriate that traffic be channelled onto specific and strategic junctions along regional routes. The NRA Guidelines on Spatial Planning on National Roads note in respect of the regional road network, that it is important to protect the capacity of these roads as they form important local and regional transportation functions. It is therefore appropriate in my view that a proliferation of accesses should be kept to a minimum along this route, notwithstanding the fact that this section of road is located within urban speed limits.
- 9.4.2. Furthermore, if the Board were minded to consider utilising the more westerly access during the operational phase, such arrangements would in my view necessitate a new application. It would not be appropriate to address this issue by way of condition as the proposal would constitute a material change in access arrangements which would warrant and justify third party input in the interests of natural justice.

9.5. Traffic Calming Measures

- 9.5.1. If the Board have concerns with regard to traffic calming measures, it could consider attaching a condition requiring additional traffic calming. I do note however the internal access road serving the site incorporates speed ramps and it is proposed to incorporate both speed ramps and designated pedestrian crossings within the internal layout of the proposal. For this reason, I do not consider it appropriate nor necessary to incorporate additional traffic calming measures. If the Board consider it to be appropriate, it could require the developer to provide a special contribution towards the provision of additional road safety signage. However, I note that the developer in this instance is required to pay almost €30,000 for road infrastructure

including traffic calming measures and therefore I do not consider that an additional levy would be justified in this instance.

9.6. Non Compliance with DMURS

- 9.6.1. The applicant in response to the additional information request submitted a report which assesses the proposed development in the context of compliance with the Design Manual for Urban Roads and Streets.
- 9.6.2. Section 4.4.1 of DMURS specifically relates to carriageway widths. It states that designers should minimise the width of the carriageway by incorporating only as many lanes as needed to cater for the projected vehicle flows and by reducing the size of individual lanes to meet predominant user needs. A standard lane width on local streets should be between 5 and 5.5 metres. Narrower lane widths would in my view contribute to allaying third party concerns in relation to speeding and would therefore assist traffic calming. However, it may be appropriate in my view to condition that the carriageway be increased to a minimum of 5 metres in width in order to comply with the above Guidance.
- 9.6.3. The grounds of appeal also suggest that Condition No. 2, which requires the slight relocation of Units Nos. 78 to 87, in order to achieve a 22 metre minimum separation distance, would result in a material alteration of the footpath reducing it to 1 metre in width. I accept the appellant's arguments that the reduction of the footpath to 1 metre in width would be inappropriate. I consider that such a requirement is not necessary as the separation distance between dwellings as submitted in the layout results in a separation distance between House Nos. 70 to 77 and House Nos. 78 to 87 in excess of 20 metres. While slightly below the standards set out in the development plan, the separation distances as set out in the current layout plan is nevertheless acceptable in my view. The requirement therefore to alter the location of House Nos. 78 to 87 which would result in a reduction in the footpath width should be omitted.

9.7. Social Housing Provision

The grounds of appeal express concerns that the nature and standard of housing to be provided in the layout does not lend itself to the allocation of social housing within the scheme. Details in relation to the suitability of the houses for the purposes of social housing are a matter for the Planning Authority and the applicant. I do not

accept the arguments put forward in the grounds of appeal that the various house types because of their size or high specification are not suitable for social housing. The detailed requirements in respect of Part V are in my view a matter for the Planning Authority and the applicant and I consider that if the Board attach a standard condition in respect of Part V requirements that this would be adequate to ensure appropriate provision of social housing.

9.8. Landownership Issues

The grounds of appeal suggest that there are discrepancies in the land registry maps submitted with the application and it is suggested that not all of the lands may be under the applicant's ownership. I have no reason to conclude that the applicant in this instance does not have sufficient legal interest in the lands in question to carry out the proposed development. I cannot fully ascertain on the basis of the information submitted with the appeal as to what these discrepancies in relation to land ownership are. If there are any minor discrepancies in relation to landownership, this is a legal matter to be determined between the parties involved. If indeed there are any discrepancies or disputes in respect of landownership this in my view should not preclude the Board from considering granting planning permission in this instance. I refer the Board to Section 34(13) of the Planning and Development Act, 2000 (as amended) which states "that a person shall not be entitled solely by reason of a permission under this section to carry out any development". Therefore, the Board could grant planning permission for the proposed development and any subsequent legal disputes which arise in respect of landownership can be addressed prior to carryout out the development.

9.9. Works around the Open Drain

An open drain is located along the north-western boundary of the site and House Nos. 53 to 64 back onto this drain. The ecological report submitted with the application suggests that the incorporation of gabion walls together with planting would be an appropriate treatment along this section of the boundary in order to maintain and encourage biodiversity within the drain. The grounds of appeal argue that the incorporation of gabion walls could result in a dramatic increase in ground

levels along the boundary which could impact on the visual amenities of the area and may also result in a reduction in garden sizes. I do not consider this to be a particularly important and material consideration in determining the grounds of appeal. Gabion walls can be constructed along the existing drain without having any significant material impact on the rear gardens of Nos. 53 to 64. All gardens are in excess of 60 square metres - the minimum requirements in the development plan. (The Board will note that the site layout drawing - (drawing RB15/041) indicates that the rear garden of No. 53 has an area of 60 square metres. The measurement of the garden however indicates that the rear garden is c.100 metres in size). The incorporation of gabion walls along this section of the drain therefore in my view will have a negligible impact on the ground levels of the garden and the impact on the size of the garden would be modest if not negligible and would not in my view constitute reasonable grounds for refusal.

9.10. **Other Issues**

The final issue raised in the grounds of appeal relates to Condition 2(c) concerning the access roadway near the north-eastern boundary of the site. The condition states “the access roadway to the zoned land to the north-east of the site shall be extended to the south boundary and no ransom strip shall be created”. Such a condition in my view is reasonable and enforceable and in accordance with the proper planning and sustainable development of the area to ensure that lands to the north if zoned for development would not be landlocked and would not give rise to any legal disputes in terms of access. I therefore consider it appropriate to retain this condition.

10.0 **Appropriate Assessment**

The nearest Natura 2000 sites are Lough Owell SAC (Site Code: 000688) and SPA (Site Code: 004047) which is located approximately 3.1 kilometres to the north of the site and Lough Ennell SAC (Site Code: 000685) and SPA (Site Code: 004044) which is located approximately 2.6 kilometres to the south of the site. The site is located in an urban area and the proposed development will be connected to public mains. Having regard to the nature of the development, the public infrastructure available to serve the development and the separation distances between the subject site and the nearest Natura 2000 sites no appropriate assessment issues arise and it is not

considered that the proposed development would be likely to have a significant effect individually or in combination with others or projects on a European site.

11.0 Conclusions and Recommendation

Arising from my assessment above I consider it appropriate to uphold the decision of the planning authority and I therefore recommend that the Board grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

12.0 Decision

Grant planning permission for the proposed development based on the reasons and considerations set out below.

13.0 Reasons and Considerations

Having regard to the residential land use zoning objective relating to the site together with the planning history it is considered that the proposed development subject to conditions set out below, would not seriously injure the amenities of the area, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

14.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the plans and particulars received by the planning authority on 5th day of April 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the 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. The application shall be modified as follows:
 - (a) This grant of permission authorises the construction of 44 houses only. Unit No. 43 or 44 shall be deleted from the scheme and the remaining land shall be used to provide a pedestrian access to the cul-de-sac to the north-east with appropriate landscaping.
 - (b) All internal carriageway widths serving the development shall be increased in width from 4.8 metres to 5 metres. The front garden boundary of Units 40 to 52 shall be minimum of 6 metres in depth. This requirement shall be achieved without reducing the depths of the rear gardens or reducing the width of the footpaths.
 - (c) The access roadway to the zoned land to the north-west shall be extended to the site boundary in order to avoid the creation of ransom strips of land.

Reason: In the interests of orderly development

3. Units 43 (or 44 as appropriate) 52, 53, 70, 78, 87 and 88 shall be amended to provide dual aspect units with a living room window in the side elevation which will be subject of agreement with the planning authority. Prior to the commencement of development revised plans incorporating the above changes shall be submitted to the planning authority for written agreement prior to the commencement of development.

Reason: In the interest of residential and visual 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.

Reason: In the interest of visual amenity.

5. 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.

6. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpath and kerbs shall comply with the detailed standards of the planning authority for such works. Carriageway widths shall be increased from 4.8 metres to 5.0 metres.

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

7. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
 - (i) The species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder] [which shall not include *prunus* species]
 - (ii) Details of screen planting
 - (iii) Details of roadside/street planting
 - (iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation including details of phasing.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

8. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be levelled, soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 5th day of April, 2017. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

9. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes to and from the site details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

11. (a) The development shall be carried out on a phased basis. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority.
- (b) Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase. Details of further phases shall be as agreed in writing with the planning authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

12. 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 social and affordable housing in accordance with the requirements of section 96 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 97(7) applies)

may be referred by the planning authority or any other prospective party to the agreement to the Board 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 for the area.

13. The developer shall pay the sum of €37,375 (thirty-seven thousand three hundred and seventy-five euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000 in respect of the provision of a roundabout at the R390/R392 junction. This contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

14. The developer shall pay to the planning authority a financial contribution of €59,928 (fifty-nine thousand nine hundred and twenty-eight euro) 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. The application of any indexation required by this condition 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.

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.

15. The developer shall pay to the planning authority a financial contribution of €46,468 (forty-six thousand four hundred and sixty-eight euro) in respect of the Clonmore Link Road and Robinstown Link Road in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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. The application of any indexation required by this condition 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.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

16. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion, and maintenance until taken in charge by the local authority, of roads, sewers, watermains, drains, car parks, open spaces 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 security to be lodged shall be as follows -

- (a) an approved insurance company bond. or
- (b) a cash sum of to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or
- (c) such other security as may be accepted in writing by the planning authority.

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

Paul Caprani,
Senior Planning Inspector.

11th September, 2017.