



An  
Bord  
Pleanála

## Inspector's Report PL07.249176

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| <b>Development</b>                  | Retention of two raft foundations and associated works and planning permission for the construction of six dwellings. |
| <b>Location</b>                     | Clós an Iarnróid, Station Road, Ballinasloe, County Galway.   |
| <b>Planning Authority</b>           | Galway County Council.  |
| <b>Planning Authority Reg. Ref.</b> | 16/1622.  |
| <b>Applicant</b>                    | Robert McGrath.   |
| <b>Type of Application</b>          | Permission.   |
| <b>Planning Authority Decision</b>  | Grant.  |
| <b>Type of Appeal</b>               | Third Party -v- Grant.  |
| <b>Appellants</b>                   | (i) Noel and Joan Ryan,<br>(ii) Martin and Freda Cannon.  |
| <b>Observers</b>                    | None.   |
| <b>Date of Site Inspection</b>      | 8 <sup>th</sup> November, 2017.   |
| <b>Inspector</b>                    | Paul Caprani  |

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## 1.0 Introduction

PL07.249176 relates to two third party appeals against the decision of Galway County Council to issue notification to grant planning permission for the retention of two raft foundations and associated works and planning permission for the construction of six dwellings on the raft foundations together with the connection to existing services at a site at Station Road, Ballinasloe, County Galway. The grounds of appeal raise concerns in relation to sightlines on the Station Road, the validity of the application and the potential for flood risk.

## 2.0 Site Location and Description

- 2.1. The subject site is located in the townland of Deerpark in the western environs of Ballinasloe town in East Galway. The site is located off Station Road which provides access to Ballinasloe Station approximately 200 metres north of the subject site. Station Road is located approximately 1 kilometre west of Ballinasloe Town Centre. Station Road accommodates a mixture of detached and semi-detached dwellings along its alignment. On the western side of Station Road approximately 50 metres south of the level crossing at Ballinasloe Railway Station a small cul-de-sac access road runs southwards and terminates at the subject site. This local cul-de-sac provides access to a small residential estate called Clós an Iarnróid, comprising of 10 dwellings. A single detached dwelling at the northern end of the access road and a line of semi-detached and terraced dwellings, all of which are located on the western side of the local cul-de-sac further south. A line of mature deciduous conifer trees inside a metal post and wire fence run along the eastern side of the access road. These trees form the rear boundaries of rear gardens associated with dwellinghouses facing onto the Station Road to the immediate east.
- 2.2. The subject site is rectangular in shape and is located at the southern end of the cul-de-sac. The subject site is rectangular in shape approximately 43 metres in width and between 41 and 48 metres in depth. The site has a total area of 0.192 hectares. It is bounded to the east and south by the rear and side gardens of dwellinghouses facing onto Station Road to the east and the R348, The Old Ballinasloe to Athenry

Road to the south. Lands to the west of the site comprise of a large open field while the lands contiguous to the northern boundary of the site accommodate public open space associated with the existing houses facing eastwards onto the internal cul-de-sac road serving the subject site. The Deerpark River runs in an east-west direction to the north of the site and discharges into the River Suck approximately a half a kilometre further east.

- 2.3. The site itself is currently overgrown and is surrounded by post and wire fencing. Two large concrete raft foundations together with protruding service pipes are centrally located within the subject site.

### **3.0 Proposed Development**

Planning permission is sought for the construction of 6 no. two-storey dwellinghouses on the subject site. It is proposed to construct 3 no. dwellinghouses on the two separate raft foundations already existing on site. The dwellinghouses rise to a ridge height of 8.785 metres and incorporates pitched slate roofs, a smooth plaster finish and an A-shaped fronted two-storey projection on the front elevation at the front entrance into the dwellinghouse. The dwellinghouses incorporate slightly different gross floor areas which range between 105.4 square metres and 107.7 square metres. The dwellings face northwards onto the internal access road. Two car parking spaces are provided to the front of each of the dwellinghouses and rear garden depths range from 11.5 metres depth in the case of House No. A near the eastern boundary to a depth of 16.6 metres in the case of House No. F, adjacent to the western boundary. The existing cul-de-sac is to be extended to form a hammerhead junction to serve as a turning area for the off-street parking spaces to the front of the dwellings. The boundary treatment is to comprise of a 1.8-metre-high concrete block wall to be capped and plastered.

### **4.0 Planning Authority's Decision**

Galway County Council issued notification to grant planning permission and retention of planning permission for the raft foundations subject to 13 conditions. Permission was granted on 13<sup>th</sup> August, 2017.

#### 4.1. Documentation submitted with the Planning Application

- 4.1.1. The application was accompanied by a planning application form, planning fee and associated drawings.
- 4.1.2. A covering letter was also submitted. It indicates that planning permission was granted originally for the demolition of an existing dwellinghouse and outbuildings and the construction of 17 residential units comprising of 8 apartments, 6 semi-detached units in 2 two-storey blocks and 3 units in a separate block. The development was commenced but was not completed due to the economic downturn. The raft foundations on site were to cater for the 8 apartments which were never completed.
- 4.1.3. A flood risk assessment was also submitted. The assessment notes that the site is located within the catchment of the Deerpark River which discharges into the River Suck, c.500 metres to the east of the site. The main threat of flooding derives from fluvial flooding. The fluvial flooding was examined using design floods based on a 1% and 0.5% chance of occurrence. The flood risk assessment calculations include for a factor of 20% for climate change. Three scenarios were considered and it is concluded that a flood event would not inundate the site due to overtopping of the banks of the Deerpark River in a 100-year return period. Furthermore, it is stated that studies carried out by the OPW have shown that the proposed houses are outside the 0.1% AEP of fluvial floodings extent. While there is part of the existing housing development to the north inside the 0.1% AEP flood event, local knowledge states that there have never been any experiences of flooding in this development. The chances of Station Road Bridge acting as a constriction to the flow of the Deerpark River is low as the flow at the bridge is considerably good. Backing up of the River Suck along the Deerpark River could not clearly be ascertained. However, river maintenance work and flood defence works in Ballinasloe will reduce the chance of flooding by River Suck backing up.
- 4.1.4. A number of letters of objection to the proposed development were submitted. The contents of which have been read and noted. The main concerns relate to the validity of the application, restricted sightlines at the Station Road entrance to the site, and the issue of flood risk.

4.1.5. The **Planner's Report** notes that the subject site is identified as indicative Flood Zone B in the Ballinasloe LAP 2015-2021. This area is deemed to be of 'moderate' probability of flooding. It is noted that highly vulnerable development including dwellinghouses would be generally considered to be inappropriate in this zone. Notwithstanding this, the applicant has submitted a Flood Risk Assessment which indicates that the site is not at risk from flooding. It is further noted that the proposed development which seeks to consolidate the existing residential estate is acceptable in general. Notwithstanding the principle of development being acceptable, the Planning Authority requested the following additional information:

- The applicant is requested to demonstrate sufficient legal interest to access the subject site including documentary evidence of a wayleave/consent to cross lands outside the subject site boundaries in order to ensure unrestricted access to the application site.
- The applicant is requested to clarify proposals for surface water disposal.
- The applicant is required to provide additional information in relation to the flood risk assessment which considers the potential of the development to have an effect on displacement of waters to adjoining lands.
- In the interest of complying with legislative requirements of Part V, the applicant needs to highlight the entire extent of landownership in the vicinity of the site. The request for additional information was dated 2<sup>nd</sup> February, 2017.

## 4.2. Further Information Submission

- 4.2.1. The applicant submitted a copy of the legal contract and map for the area and it indicates the applicant, when he purchased the site, was given all necessary wayleaves and rights to cross lands and access the site and services.
- 4.2.2. The applicant met with the Area Engineer to discuss surface water disposal issues and it is recommended that surface water be discharged to the existing surface water pipe network on site and not to soakpits. It is proposed to install rainwater harvesting tanks on site so as to recycle the rainwater for toilet flushing and showers. The overflow from this will then be discharged to the surface water pipe network on

site. Works are currently being carried out that will be taken in charge by Galway County Council.

- 4.2.3. A supplementary Flood Risk Assessment report was also submitted. It notes that the field to the west of the site was flooded during the 2009 floods. However, the field has lower levels than the subject site. It is stated that the subject site has not shown as being flooded during the 2009 floods. It is stated that there are no definitive flood paths in this general area. It is clear therefore that the subject site has not flooded as per the Flood Risk Assessment and is not in a flood risk area. Therefore, the development will not displace any flood water.
- 4.2.4. On foot of the additional information submitted, the subsequent planners report considered the proposed development to be acceptable in accordance with the proper planning and sustainable development of the area and therefore recommended that planning permission be granted for the proposed development.

## 5.0 Planning History

There are no details of any planning history on file. However, reference is made in the covering letter submitted with the application to an original grant of planning permission for the demolition of an existing dwellinghouse and to construction 17 residential units comprising of 8 apartments and 9 houses on the subject site and the lands to the north of the subject site under Reg. Ref. 06/011.

## 6.0 Grounds of Appeal

### 6.1. Appeal on behalf of Noel and Joan Ryan by Dolan and Associates Limited

- 6.1.1. This appeal sets out the planning history of the site and maintains that a number of conditions pertaining to the original permission have been complied with. It is stated that a pipe was damaged by infilling an open drain and this is contributing to flooding in the area. It is argued furthermore that the decision of the Planning Authority has granted retention of planning permission for the raft foundations and retention (my emphasis) of planning permission for the six houses notwithstanding the fact that full planning permission was sought for the six houses in question.

- 6.1.2. The validity of the application was also called into question on the grounds that the site notice was attached to the fencing currently placed around the site and this was not in a conspicuous location in accordance with the requirements of Article 19 of the Regulations. It is requested that the site notice be erected in a more conspicuous position to inform the public because of the serious flooding problems associated with the site.
- 6.1.3. It is also argued that the sightlines at the entrance to the existing development are severely restricted, substandard and endangering public safety by reason of a traffic hazard. It is stated that the sightlines when measured 2.5 metres back from the edge of the public road are approximately 8 metres to the south-east and are non-existent to the north-west. The proposed development will result in an intensification of use and endanger road safety by reason of a traffic hazard.
- 6.1.4. It is also noted that the lower part of the site is located in indicative Flood Zone B. The appellants are perplexed as to know why the lower part of the site is located in Zone B and the higher part of the site is located in Zone A.
- 6.1.5. It is argued that the site of the proposed development is prone to flooding and was severely flooded in November, 2009. The planning application states that the site has never flooded and this is false and misleading. A report generated by Galway County Council acknowledges that the site is liable to flooding (the Board will note that this report does not appear on file). The development permitted on this site under the original parent permission has exacerbated flooding to the adjoining properties as a result of the infilling of the natural floodplain. The proposal is contrary to Departmental Guidelines on flood risk. It is suggested that there are adequate development lands in the wider Ballinasloe area which are not prone to flooding which could be developed. Photographs are submitted (see Appendix L) which clearly shows the site and the roadway were flooded in the past. It is also noted that properties further north along the access road are at a higher ground level than the subject site and it is evident that these properties have been subject to flooding particularly in the extreme flood event of 2009. It is stated that the proposed foul sewage system serving the proposed development will not be operational in the event of a flood which will give rise to health and safety issues. The residents of Derrymullen and Deerpark commissioned an independent flood relief study in July, 2012 to seek to protect properties on foot of failures by Government Agencies and



Galway County Council to address prolonged flooding problems in the area (see Appendix N). It is stated that the ground levels are over a metre below the recorded flood level at the railway station in 2009. The grounds of appeal were accompanied by the following appendices:

- Appendix A – Decision of Planning Authority in respect of the current application.
- Appendix B – Copy of acknowledgement of receipt from the Planning Authority of observation.
- Appendix C – Copy of planning decision Reg. Ref. No. 06/011.
- Appendix D – Copy of correspondence to Ballinasloe Town Council and reply in respect of same for Ref. No. 06/011.
- Appendix E – Photographs of sightlines available at entrance.
- Appendix F – Map extracts from Ballinasloe Local Area Plan.
- Appendix G – Section 3.7 of Ballinasloe Local Area Plan.
- Appendix H – Site layout plan showing levels.
- Appendix I – Historical map scale 1:10,560.
- Appendix J – Flood Risk Assessment submitted with application.
- Appendix K – Photographic booklet showing flooding in an around the application site.
- Appendix L – Flood relief study prepared by Hydro Environmental.

## **6.2. Appeal by Martin and Freda Cannon**

- 6.2.1. This appeal was submitted by Gerard Cleary Consultant Engineer. It is stated that the appellants are the owners of two dwellings on adjacent lands to the east of the subject site, one of which is the family home. It is stated that the appellant who has lived in the locality for the previous 60 years has observed the subject site being under flood waters on a regular basis due to the overflow of water from the adjacent Deerpark River. Reference is specifically made to the inundation of flooding in the site and surrounding area in November, 2009. It is suggested that financial institutions would have been unwilling in the past to give loans to private individuals

due to the risk of a repeat flood event. The appellants' property was partially flooded in 2009 where the floor levels of the house were only centimetres above the peak flood water levels. There is a risk that water displacement resulting from the proposed development will result in increased flooding levels on the appellants' property. It is stated that water levels may not necessarily need to reach 2009 peak levels to cause problems and even at lower flood levels, contaminated water will seep from house connections and low level road manholes.

- 6.2.2. The local community flood alleviation group was established post the 2009 flood event to prepare a plan to combat future flooding. Funding for the proposed works to be undertaken have not been granted to date and an appendix is attached containing extracts of the funding application submission. The current application shows the proposed house levels as being at the same level as those flooded in November, 2009. The site access road is at a lower level than the houses and will be under water even in moderate flood scenarios. There are almost 36 hectares of land within the Ballinasloe area available for residential development and there is no logic in developing risk flood lands when more suitable lands are available.
- 6.2.3. Concerns are also expressed in relation to the road access with restricted sightlines. Currently residents are driving out to the centre of the public road in order to obtain requisite sight distances. Furthermore, pedestrians walk along the edge of the carriageway where there is no footpath adjacent to the bridge. An increase in the number of housing units utilising this access will increase the risk of accidents. The proposed development seeks to use existing site services which have yet to be taken in charge by the local authority.
- 6.2.4. Finally, it is suggested that the applicant may not be the owner of all the lands in question and may only own a portion of the lands (0.1129 hectares as opposed to 0.192 hectares).

## **7.0 Appeal Responses**

### **7.1. Applicants Response to the Grounds of Appeal**

- 7.1.1. A response was received on behalf of the applicant by James O'Donnell Planning Consultant. The response is outlined below:

The site location and description is set out in the response and the site is described as an infill and brownfield site. It is noted that all physical infrastructure including access, open space, public lighting and water and sewage networks are available to service the development. The response sets out the planning application details and the planning history of the site. The Board are asked to note that under Reg. Ref. 11/9020 Galway County Council issued notification to extend the duration of the parent permission and this extension of duration was granted after the 2009 flood events.

7.1.2. The grounds of appeal contend that the objections have been motivated by the presence of social housing within the estate and the concern that the proposal in this instance will lead to an increase in social housing.

7.1.3. Under the provisions of the Ballinasloe Local Area Plan the subject site is zoned “existing residential”. The fact that the underlying zoning is “existing residential” is of critical importance to assess the case. The proposed reutilisation of the existing residential development will not result in a significant additional number of people in the area. It is also stated that the proposal has been the subject of a detailed site specific flood risk assessment which examines the local flood regime in detail and concludes that the proposed development will not result in a flood risk. The proposal involves the completion of an existing housing development plus the finished floor levels will be higher than that which exists and was previously permitted on the site. The existing road levels along the estate road connecting with Station Road are sufficiently high to cater for emergency access. Furthermore, the grounds of appeal incorrectly state that the foul sewer serving the development discharges to a sump. The proposed development is served by a gravity fed sewer and all manholes are sealed in accordance with best practice. Therefore, no public health issues arise.

7.1.4. It is stated that there is no recorded history of flooding on the subject site. Both appellants refer to an aerial photograph. However, the quality of the image appears vague and is inconclusive as to whether the subject site is actually flooded or not. Details provided by the appellants appear to be at odds with official sources. In support of this reference is made to the Galway County Council GIS map-viewer where no record of flooding is indicated on the subject site. Furthermore, significant flood relief/defence works have been carried out in the area including maintenance works to the River Suck and the construction of flood defence walls. It is also noted

that the subject site was not flooded during the extreme floods of early December, 2015.

- 7.1.5. Also submitted is an extract from the Shannon CFRAM Study Map (July 2016) and it is noted that the subject site is located outside the 0.1% AEP fluvial flood extent and reference is again made to the flood risk assessment submitted with the application to the Planning Authority.
- 7.1.6. Reference is also made to the justification test set out in Section 5.28 of the Flood Risk Management Guidelines and in respect of applications for minor developments such as small extensions to houses or industrial premises etc. The justification test therefore should not apply.
- 7.1.7. With regard to the issue of non-compliance with conditions, it is argued that this is an unfounded allegation and is a matter for the Council's Enforcement Section and not An Bord Pleanála.
- 7.1.8. With regard to validation issues, it is stated that the location of the site notice was fully compliant with the requirements of the Planning and Development Regulations, 2001. The application details have also clarified issues in respect of the applicant's ownership of the lands.
- 7.1.9. With regard to the issue of sightlines, it is argued that the proposed development will result in less traffic movements compared to that originally permitted on the subject site. The proximity of the railway station is likely to discourage the amount of car borne trips in and out of the estate and it should be noted that the Roads Department had no objection to the proposed development.
- 7.1.10. In conclusion the response sets out the merits of completing the proposed housing estate and this includes consolidating urban development with infill development, compliance with the Settlement Strategy and providing better surveillance of communal open space within the estate. It is also argued that the proposed development will result in the completion of an unfinished housing estate and will result in an enhancement of the overall residential environment compared with leaving the site undeveloped.

## **7.2. Planning Authority's Response to the Grounds of Appeal**

Galway County Council have not submitted a response to the grounds of appeal.

## 8.0 Development Plan Provision

- 8.1. The site is governed by the policies and provisions contained in the Ballinasloe Local Area Plan. Relevant considerations are set out below:
- 8.1.1. The subject site is zoned “residential – constrained land use”. Under Objective LU13 constrained land use zones seek to facilitate the appropriate management and sustainable regeneration and use of flood risk areas. This zoning limits new development while recognising that existing development uses within these zones may require small scale development such as outlined below over the life of the Local Area Plan which will contribute towards the compact and sustainable urban development of Ballinasloe Town.
- 8.1.2. The underlying zoning for the existing permitted uses are deemed to be accepted in principle for minor developments to existing buildings (such as small extensions to houses, most changes of use to existing buildings) which were unlikely to raise significant flooding issues provided they do not obstruct important flow paths, introduce a significant number of people into flood risk areas, or entail the storage of hazardous substances. Development proposals within this zone shall be accompanied by a detailed flood risk assessment carried out in accordance with the Planning System and Flood Risk Assessment Guidelines and Circular PL2/2014 which shall assess the risk of flooding associated with the proposed development. Proposals shall only be considered where it is demonstrated to the satisfaction of the Planning Authority that they would not have adverse impact or impede access to a watercourse, floodplain or flood protection and management facilities or increase the risk of flooding to other locations. The nature and design of structural and non-structural flood risk management measures required for development in such areas will also be required to be demonstrated so as to ensure that flood hazard and risk will not be increased. Measures proposed shall follow best practice in the management of health and safety for users and residents of the development. Specifications for development in flood vulnerable areas set out in this plan shall be complied with as appropriate.
- 8.1.3. Section 4 of the Local Area Plan contains local area plan maps. Map 3A and 3B relate to flood risk management. The subject site is located in ‘Indicative Flood Zone B’. These include areas where site specific flood assessment will be required.

- 8.1.4. In relation to flood risk, the Plan states that the OPW have produced flood maps as part of the preliminary flood risk assessment that identified areas of risk of flooding. Ballinasloe has been identified as an area of further flood risk assessment by the OPW. More accurate mapping will be produced for areas of potentially significant risk under the OPW programme of the Shannon Catchment Flood Risk Assessment and Management Study. It is noted that works have been carried out and the mitigation works that were undertaken have ensured that flooding has not occurred to the same extent.
- 8.1.5. Flood Zone B is designated as having a moderate probability of flooding (1:100 to 1:1000-year risk of flooding).
- 8.1.6. In terms of constrained land use zoning, such zonings allow minor developments for existing permitted uses within these lands (such as small extensions to houses) and most change of uses of existing buildings which are unlikely to raise significant flood issues within these areas subject to meeting specific requirements.
- 8.1.7. Under Objective FL2 development shall only be permitted in areas at risk of flooding when there are no alternative reasonable sites available in areas that also meet the objectives of the proper planning and sustainable development of the area.
- 8.1.8. Under Objective FL1 development proposals in areas that are in identified or have potential risk of flooding or could give rise to flooding elsewhere will be required to carry out a site specific flood risk assessment and justification test where appropriate in accordance with Departmental Guidelines. Developments that will be subject to inappropriate risk of flooding or that would cause or exacerbate such a risk in other locations will not normally be permitted.
- 8.1.9. Objective FL2 seeks to protect Flood Zone A and Flood Zone B from inappropriate development.

## 9.0 **Assessment**

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

- Flooding.
- Traffic and Road Safety Considerations.
- Validation of Application.

## 9.1. **Flooding**

9.1.1. The main issue raised in both appeals relates to the potential threat of flooding on site. The grounds of appeal argue that the site itself is prone to flooding but also that any development of the site could result in the displacement of flood waters in surrounding lands. The subject site is located in an area designated as Flood Zone B in the Ballinasloe Local Area Plan. The Plan is quite prescriptive in terms of the overall flood strategy. While the subject site is zoned for residential development and this fact is highlighted in the applicant's response to the grounds of appeal, the residential development is located in a "constrained land use zone". Such a zoning designation does not permit largescale development. "The underlying zoning or the existing permitted uses are deemed to be acceptable in principle for minor developments to existing buildings (such as small scale extensions to houses), most changes of use of existing buildings". What is proposed in this instance in my view is not a minor development to an existing building but the provision of an additional six houses on the subject site. Thus having regard to the constrained land use zoning objective for the subject site it could be reasonably argued in my view, that the proposed development of six additional dwellings which represents a 40% increase in the number of dwelling units within the overall site does not constitute a minor development to an existing building and as such would not comply with the land use zoning objective. Furthermore, Section 3.7.6. of the development plan which sets out Flood Risk Management Guidelines notes that highly vulnerable development including residential development is deemed to be an inappropriate land use in Flood Zone B and where proposed a justification test and a detailed flood risk assessment is required. I acknowledge that the applicant in this instance has submitted a flood risk assessment however, I am not satisfied that the flood risk assessment has demonstrated beyond all reasonable doubt that the site in question is free from flood risk. While the applicant disputes the aerial photographs submitted with the grounds of appeal, I consider that the above aerial photographs clearly indicate that the site in question was flooded during the flood event of 2009. The aerial photographs

submitted adequately demonstrate that the lands on which it is proposed to build the six dwellinghouses was under water at the time of the flood event. Were the development in this instance to go ahead, I consider any such development would result in the displacement of flood waters onto adjoining lands which would pose a threat to surrounding residences.

- 9.1.2. Furthermore, I would agree with the contention set out in the grounds of appeal that while the northern portion of the site is located in Flood Risk Zone A, and is therefore more vulnerable to flood risk, the grounds levels indicated on the maps and plans submitted with the application show that road levels in the northern portion of the site are higher than those on the roadway within the subject site. Any flood waters that may congregate in the more vulnerable Flood Zone A area adjacent to Station Road would flow southwards towards the subject site. The natural topography of the lands therefore in my view makes the subject site as equally vulnerable to flooding as the Flood Zone A area to the north.
- 9.1.3. Both the development plan and the applicant in response to grounds of appeal highlight the fact that flood relief works have been undertaken since the catastrophic flood events of December, 2009. However, I do not consider that it has been adequately demonstrated that the flood works that have been undertaken have reduced the flood risk to the lands in question.
- 9.1.4. In relation to the issue of flooding, the Board in my view should exercise a precautionary approach in determining the current application before it, having particular regard to the devastating consequences which arise as a result of flooding in highly vulnerable development such as residential development.

## **9.2. Traffic and Road Safety Considerations**

- 9.2.1. Having inspected the site, I would agree with the appellants that sightlines are severely restricted in a northerly direction towards the level crossing on the Ballinasloe Railway Line. I refer the Board to the photographs attached carried out during my site inspection. I am generally satisfied that sightlines in a southerly direction towards the town of Ballinasloe are acceptable.
- 9.2.2. As in the case of flooding, I think the Board should adopt a precautionary approach in permitting the intensification of the use of an access where sightlines are so



severely restricted in a northerly direction. In order to achieve minimum sight distances while driving a vehicle, it is necessary to manoeuvre the car onto the Station Road carriageway in order to achieve appropriate sightlines. Having regard to the distance between the subject site and the town of Ballinasloe I consider that it is likely that many trips to the town centre will be made by private car and this will result in an intensification of vehicular use at an access where sightlines are severely restricted. The proposed development would therefore in my view exacerbate the potential for a traffic hazard.

### **9.3. Validation of Application**

- 9.3.1. The grounds of appeal argue that the site notice failed to comply with the planning regulations. While the site notice was not erected at the time of my own site visit, I refer the Board to the first local authority planner's report which contains a photograph of the site including the location of the site notice on the site boundary. I consider that the site notice was erected at the boundary in a conspicuous position adjacent to a public road and as such the location and position of the site notice fully complies with the requirements under article 19 of the Planning and Development Regulations, 2001. The validity of the application therefore should not be called into question on this basis.
- 9.3.2. The grounds of appeal also state that there are a number of issues with regard to non-compliance with conditions associated with the parent permission. Any issues regarding non-compliance with extant permissions are a matter for the Planning Authority and not An Bord Pleanála.

## **10.0 Appropriate Assessment**

I note that no appropriate assessment screening report was submitted with the application.

The nearest Natura 2000 site is the River Suck Callows SPA (Site Code: 004097) which is located approximately 0.2 kilometres from the subject site and forms part of the northern boundary of the Deerpark River to the east of Station Road. The features of interest associated with this Natura 2000 site include:

- The Whooper Swan.
- The Widgeon.
- The Golden Plover.
- The Lapwing.
- The Greenland White Fronted Goose.
- Wetland and water birds.

Having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European site, 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 other plans and projects on a European site.

## **11.0 Conclusions and Recommendation**

Arising from my assessment above I recommend that Board overturn the decision of the Planning Authority and refuse planning permission for the proposed development on the grounds that the proposal is located on a site that is of risk of periodic flooding and that the intensification of the access serving the site would pose a traffic safety issue and traffic hazard. I therefore recommend that the Board refuse planning permission based on the reasons and considerations set out below.

## **12.0 Reasons and Considerations**

1. It is considered that the proposed development is located on lands which are at risk of flooding and the proposed land use constitutes a high vulnerable development as per the Planning System and Flood Risk Management Guidelines for Planning Authorities issued by the Department of Heritage and Local Government (2009). Furthermore, it is considered that the proposed development does not satisfy all the criteria set out in the justification test contained in the said Guidelines. The proposed development therefore would be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development would result in an intensification of vehicular trip generation at the junction between the public road serving the site and Station Road where sightlines are restricted particularly in a northerly direction. The proposed development therefore constitutes a traffic hazard.

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Paul Caprani,  
Senior Planning Inspector.

19th December, 2017.