



An  
Bord  
Pleanála

## Inspector's Report ABP-304339-19

### Development

Construction of a housing development of 13 no. units, car parking, provision of green space, connection to existing services and all ancillary site development works.

### Location

Claremount, Oughterard, Co. Galway

### Local Authority

Galway County Council

### Type of Application

Application for approval made under Section 177(AE) of the Planning and Development Act, 2000 (local authority development requiring appropriate assessment)

### Prescribed Bodies

Department of Culture, Heritage and the Gaeltacht

### Observer(s)

1. Claremount and Sruchán an Chláir Residents
2. Áine O'Malley
3. Maria O'Malley

4. Mary O'Malley & Tommy O'Malley
5. Michael Healy
6. Patrick J. & Nora Carmel Healy
7. Julia Healy
8. Tony Bellew
9. Fergus McKiernan & Eithne McGinty
10. Dela Osthoff & Gerard Spain
11. Cepta & Michael Stephens
12. Residents of Claremount, Sruchán An Chláir & others
13. John Joseph Tierney

**Date of Site Inspection**

14<sup>th</sup> June 2019

**Inspector**

Donal Donnelly

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## 1.0 Introduction

- 1.1. Galway County Council is seeking approval from An Bord Pleanála to undertake a housing scheme of 13 no. units adjacent to the a hydrological pathway to the Lough Corrib SAC which is a designated European site. The Lough Corrib SPA is also in proximity to the proposed works (see further analysis below). A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on European sites.
- 1.2. Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority, the authority shall prepare a NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

## 2.0 Proposed Development

- 2.1. Galway County Council is seeking permission for a residential housing scheme of 13 no. units comprising the following:
  - 9 no. single-storey 2-bed dwellings;
  - 4 no. 2-storey 2-bed dwellings;
  - Car parking;
  - Green space; and
  - Connection to services and all ancillary site development works.
- 2.2. **Accompanying documents:**
  - Screening statement in support of Appropriate Assessment;

- Natura Impact Statement Report;
- Environmental Impact Screening Report;
- Civil and structural information including drainage and water supply drawings and a site-specific flood plain report;
- Mechanical and electrical information;
- Archaeological Impact Assessment;
- Planning application drawings; and
- Planning notices.

### 3.0 **Site and Location**

- 3.1. The subject site is located in the townland of Claremount to the west of the village of Oughterard, Co. Galway. Oughterard is situated near the western shores of Lough Corrib on the N59 approximately 25km north-west of Galway City. The population of the village in the 2016 Census was 1,318. The village has developed historically to the south-east of Owenriff River around Market Square, Main Street and Camp Street. Residential development has occurred in the form of housing estates, one off dwellings and linear development, mostly at a distance from the town core.
- 3.2. The site is situated approximately 1.225km from Market Square and immediately to the north of Sruchán An Chláir housing estate. Levels fall across the site from south-west to north east by approximately 8.5m over a distance of 100m. A track traverses the site from south to north and there is a stream immediately to the north. Stone walls continue along the western and northern site boundaries. The site area is approximately 0.63 hectare and coverage comprises overgrown grass with trees and scrub.

### 4.0 **Planning History**

- 4.1. None

## 5.0 Legislative and Policy Context

- 5.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Articles 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).
- 5.2. **European Communities (Birds and Natural Habitats) Regulations 2011:** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.
- 5.3. **National nature conservation designations:** The Department of Culture, Heritage and the Gaeltacht and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.
- 5.4. European sites located in proximity to the subject site include:
- Lough Corrib SAC
  - Lough Corrib SPA
- 5.5. **Planning and Development Acts 2000 (as amended):** Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.
- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
  - The likely effects on the environment.
  - The likely consequences for the proper planning and sustainable development of the area.
  - The likely significant effects on a European site.

## 5.6. National Planning Framework

- 5.6.1. The NPF recognises that the fastest growing areas at present are the edges of cities and towns and this results in a process of infrastructure/ services catch up, city and town centres becoming run down, greenfield sprawl and a higher carbon footprint.
- 5.6.2. It is stated that an increase in the proportion of more compact forms of growth in the development of settlements of all sizes, from the largest city to the smallest village, has the potential to bring new life and footfall, contribute to the viability of services, shops and public transport, increase housing supply and enable more people to be

closer to employment and recreational opportunities, as well as to walk or cycle more and use the car less.

## **5.7. Galway County Development Plan, 2015-2021**

- 5.7.1. The Settlement Hierarchy for Co. Galway designates Oughterard under the “other towns and villages (<1500)” category. It is stated these villages “...*have strong settlement structures and have the potential to support additional growth, offering an alternative living option for those people who do not wish to reside in the larger key towns and do not meet the housing need requirements for the rural area...*”
- 5.7.2. Section 3.3 sets out details relating to housing location/ design and density in urban areas. Reference is made to Objective UHO 10 – Sequential Development and Objective UHO 11 – Development Densities. Development standards for residential development are included in Chapter 13. Natural heritage and biodiversity policies and objectives are set out in Section 9.9.
- 5.7.3. A new local area plan for Oughterard is yet to be commenced. Under the previous Local Area Plan, the appeal site is zoned “residential” and the northern boundary of the site was also the Local Area Plan boundary.

## **5.8. Sustainable Residential Development in Urban Areas**

- 5.8.1. It is stated in Section 6.7 of these Guidelines that “... *the overall order and sequencing of development of small towns and villages must avoid significant so called “leap-frogging” where development of new residential areas takes place at some remove from the existing contiguous town/village and leading to discontinuities in terms of footpaths lighting or other services which militates against proper planning and development.*”

## **6.0 The Natura Impact Statement**

- 6.1. Galway County Council’s application for the proposed development was accompanied by a Natural Impact Statement (NIS) which scientifically examined the proposed development and the European sites. The NIS identified and characterised the possible implications of the proposed development on the European sites, in



view of the sites' conservation objectives, and provided information to enable the Board to carry out an appropriate assessment of the proposed works.

- 6.2. The NIS identifies the potential effects arising from the project and the potential in-combination effects. Mitigation measures are set out for earthworks, fuel use and storage, protection of water quality and surface water bodies and non-native invasive species.
- 6.3. The conclusions reached from the Stage 2 Appropriate Assessment are that there are potential risks to two European Sites in the absence of mitigation arising from potential construction related surface water emissions, increased sedimentation and potential pollution events. It is considered that with full implementation of mitigation measures, these risks will be avoided and there will be no adverse effects on the qualifying interest habitat or species, nor the attainment of specific conservation objectives, either alone or in-combination with other plans or projects for the relevant European Sites.

## 7.0 Consultations

- 7.1. The application was circulated to the following bodies:
  - Department of Culture, Heritage and the Gaeltacht
  - Inland Fisheries Ireland
  - Irish Water
- 7.2. A response was received by the Board from the Department of Culture, Heritage and the Gaeltacht, which is summarised as follows:
  - Notes that no ecological impact assessment or equivalent is available.
  - While not clear from the NIS, the primary concern is the population of Annex II species, Freshwater Pearl Mussel in the main channel of the Owenriff River in Oughterard.
  - The fast-flowing Canrawer Stream flows directly into the Owenriff and a substantial part of the population of Freshwater Pearl Mussel occurs downstream of the confluence of these two watercourses.

- Conservation condition of the species within the SAC is bad and conservation objective is to restore the favourable conservation condition of the species.
- NIS is limited in terms of scientific data and analysis and no particular emphasis is placed on any habitat or species at risk.
- No consideration of any adverse effects when development is operational – project element and potential effect ‘fuel use and storage’ is also likely to arise during operation.
- It is not shown how mitigation measures will negate the short to long term risks to Freshwater Pearl Mussel and there is no final analysis on risks to the river and implications for conservation objectives of the site.
- Development extends to within 3m of the stream and distance quoted in NIS is 14m – back gardens of some properties will back onto the stream and boundary treatment details unknown.
- Other than the use of a silt curtain during construction, no other protective measure or set back distances are included to provide for long-term safeguarding of the stream and its margins.
- For appropriate assessment, NIS will need to be supplemented by additional assessment and analysis.
- Canrawer Stream appears to be in a highly natural state and fringed by a narrow band of woodland/ trees with ferns overhanging the bank – stream channel and interconnecting hedgerows may act as an ecological corridor. No surveys of mammals, birds or other aspects of biodiversity have been carried out – potential for Otter, Badger and bat presence and usage of the site clearly exists.
- Unclear what boundary treatments will be and whether bordering hedgerow will be retained or lost.
- Extent to which any biodiversity losses will be consistent with, or will contravene objectives and policies of the Development Plan and LAP has not been examined.

7.3. Irish Water responded to a pre-connection enquiry made by Galway County Council in 2017 for 10 no. houses at the subject site. It was confirmed that subject to a valid connection agreement and completion of capital projects, the proposed connection to Irish Water can be facilitated. It was noted that the upgrade to increase capacity at Oughterard Wastewater Treatment Plant was underway at the time of the correspondence (August 2017) and that a connection could be facilitated to the foul network within the housing estate to the south. A water connection could also be facilitated to the existing 80mm uPVC watermain serving the housing estate.

#### 7.4. Public Submissions

7.4.1. A total of 14 no. submissions on the proposed development were received from members of the public and local residents' groups. The main points raised in each of these submissions is summarised as follows:

##### Claremount and Sruchán an Chláir Residents

- There are shortcomings regarding the description of the project and the nature of housing proposed, together with the failure to show the presence of a septic tank beside the south-eastern corner of the site, how development will connect to services, the presence of a private right of way through the site, and proposed piling.
- Public notices do not adequately describe how submissions can be made – no period specified and loss of clarity resulting from the translation of the statutory requirement into the wording of the public notice.
- Proposal is equivalent to 27% of the total housing demand allocated to Oughterard over the development plan period (2015-2021).
- Core Strategy states that there is 88.9 hectares of undeveloped residential zoned land in Oughterard – this equivalent to the total zoned housing land requirement for the whole county. No weight should be given to the fact that the site lay within the settlement boundary of the 2006 LAP and was zoned residential.
- Claremount and the subject site are well outside the settlement area of Oughterard defined for census purposes in 2016.

- Specific circumstances set out in the Sustainable Residential Development Guidelines to support peripheral development do not apply to this application.
- Emphasis of the Regional Spatial and Economic Strategy in respect of towns and villages is on regeneration, revitalisation and consolidation and there is no objective in the National Planning Framework which would support the proposal under consideration.
- There are no services or facilities of any kind closer to the site, other than the riverside public open space and the bus stops at the L5330 junction, more than 300m from the site – housing on this site would therefore be highly car dependent.
- It is unrealistic to assume that households eligible for social housing can afford to own and run a car and very limited public transport serving the site does not provide an adequate alternative mode.
- Terrace of four public houses near the site in dilapidated state is an indicator of the unsuitability of this peripheral location for social housing.
- Existing N59/ L5330 junction and alternative junction to east providing access to the site do not meet minimum design standards for visibility splays.
- Core Strategy table sets an indicative net residential zoning of 11 units per hectare for new housing in Oughterard – proposed net density of 20 units per hectare is nearly double the indicative zoning of the development plan.
- Choice of site is hard to comprehend given that the Council owns a substantial undeveloped landholding directly adjacent to the village.

Áine O'Malley, Claremount

- Owner of land adjoining the eastern side of the development site – requests similar provision of access to that proposed to lands to the north, i.e. screened by 2m high walls and gated.
- Gated access to east not acceptable to observer – 13m wide proper road access similar to northern access should be provided.

Maria O'Malley, Claremount

- As per objection above.

Mary O'Malley & Tommy O'Malley, Claremount

- As per objection above.

Michael Healy, 18 The Hawthorns, Limerick Road, Ennis

- Section 19 of the Planning and Development Act, 2000 (as amended) states that a planning authority must commence a review of a local area plan six years after the making of the previous LAP and that deferment can only take place by resolution not more than 5 years after making of LAP.
- If review of LAP had been accommodated, observer's family would have requested that subject site be changed back to agricultural given the amount of undeveloped zoned land closer to the village with better infrastructure and services and the need to regenerate derelict buildings on the main street.
- Proposal does nothing to address shortcomings in relation to pedestrian access to the village – no continuous footpath or street lighting.
- Sustainable communities should be built where services are available – proposal is too far and will not act as a catalyst to encourage the renewal of rundown buildings in the village centre.
- Motorists turning onto the N59 have a lack of visibility in both directions and width of L5330 cannot accommodate 2-way traffic for a distance of 80m, resulting in queuing and congestion on the N59 – proposal will generate additional traffic movements.
- Design statement with application recommends that junction be examined for compliance with standards and that plans for the N59/ L5330 upgrade, together with road safety audit form part of the application – this appears to have been omitted.
- The fact that the sliver of land through the site remains in different ownership restricts the housing layout options for the site.
- There appears to be insufficient depth to the rear gardens of houses 11-13, which back onto observer's family home – this will adversely affect privacy.
- Mature silver birch trees along family home boundary will cast a shadow over the three proposed houses to the north.

- Area allocated for a pump station – larger area likely to be required to meet Irish Water’s design requirements, thus affecting the layout of the proposed development.
- Concerned about any proposal to discharge wastewater to the drain if Irish Water, as the water authority, have no legal responsibility for maintaining it.
- Irish Water’s Code of Practice states that *“the minimum pipe size for a gravity sewer where more than 20 housing units are connected is 225mm subject to the hydraulic design capacity requirement.”* 150mm sewer is already serving more than 20 dwellings and another 13 houses will almost certainly result in further blockages with sewerage surcharging at the manhole in observer’s parents’ property.
- Irish Water’s Code of Practice states that water mains for developments of 40 to 100 dwellings should have a minimum internal diameter of 100mm – proposal will result in 48 dwellings being served by the 80mm watermain.
- Stepped rear garden boundaries to tie into existing levels will result in observer’s family garden being overlooked - raising of grade level on last remaining side will have the effect of property being sunken relative to surrounding properties.
- There are no proposals to pile the boundary wall with observer’s property which raises concerns regarding structural stability.
- It is not clear if catchment area has been taken into account in sizing of soakaway – if undersized, it could result in flooding. Observer’s garden at a lower level could become saturated and this could affect the performance of their septic tank.
- Pile driving induced vibrations could result in damage to surrounding structures including the septic tank – before and after condition survey should be undertaken.
- Access for construction traffic will be difficult and there is no provision for temporary car parking for employees. No assessment has been carried out of the likely noise and vibration impact during the construction phase.

- Unlikely that House 11 will have an adequate separation distance from observer's septic tank and percolation area.

Patrick J. & Nora Carmel Healy, Claremount

- Density out for character with existing houses in Claremount and Sruchán An Chláir.
- House 11 will be located 3.7m from observer's boundary and this will affect their privacy.
- Natural topography not taken into account.
- Freshwater Pearl Mussel in the Owenriff could be endangered during the construction phase resulting from silt run-off or an overflow from the sewerage pumping station.
- Construction activities could impact on health and wellbeing of observers.
- Vent stacks to pumping station are unwarranted.
- There are safety concerns over heavy agricultural equipment, farm machinery, bin lorries and delivery vans entering and leaving the site.

Sarah Healy, Lower Breck Road, Liverpool, England

- Points raised broadly the same as above family objections.

Julia Healy, 43a Chemin des Coudriers, Geneva, Switzerland

- Points raised broadly the same as above family objections.

Tony Bellew, 17 Sruchán An Chláir

- Points raised in this submission addressed above.

Fergus McKiernan & Eithne McGinty, Claremount

- Department's statement on housing policy, "Delivering Homes Sustaining Communities" states that *"the successful design of a good quality sustainable housing project depends on the balance struck between a range of factors. Issues such as accessibility, security, safety, privacy, community interaction, availability of appropriate services and the provision of adequate space."*

Proposal achieves none of these aims.

- Also states that *“the aim should be to produce a design of good quality while maintaining capital costs within the overall cost parameters agreed for the scheme.”* Type of site and its development will leave little money left over for any aesthetics and wastewater pump will require regular and costly maintenance.
- Proximity of stream to wastewater pump station is of concern – stream flows directly into the Owenriff River and this is close to the hatchery of the Fisheries Board.

Dela Osthoff & Gerard Spain, 3 Sruchán An Chláir

- It has been established that the Owenriff River is one of the few remaining breeding populations of Freshwater Pearl Mussel in the EU and the world and the population was actively breeding in the vicinity of Oughterard – construction work will inevitably lead to contamination of stream regardless of mitigation measures or restrictions.
- Green area in the centre of the development is completely surrounded by roadway which contravenes regulations. Also interrupts an existing right of way which is used frequently by farm machinery that will have to negotiate two bends and vehicles parked on the roadside.
- Site layout could be devised with more communal areas such as play areas or vegetable allotments.
- Any sewage pumping system failure will likely only be detected when the system overflows – no monitoring system is to be put in place.
- East side of site is low and wet and CFRAM flood plain maps indicate the area is at low risk of flooding – extreme weather events will increase frequency and intensity of flooding.
- Observers not aware of design statement from Irish Water to confirm that the public sewer infrastructure would have capacity for 13 extra houses.
- Malodorous gases will be blown from the proposed sewerage gas vent pipe within Sruchán An Chláir.



- Location of development has not been considered with due regard for the needs of the elderly or mobility impaired.
- Galway County Council recently refused a development in Clifden partly on grounds of lack of pedestrian connection/ limited footpath connectivity from site to the town.
- Suggest the inclusion of low impact street lighting, eco-friendly heat systems, larger windows and rooftop solar collectors.
- Happy to support social housing to a high standard.

Cepta & Michael Stephens, Inchagoill House, Claremount

- Immediate and adjacent householder to south-west of site – points broadly similar to those raised in other submissions.

Residents of Claremount, Sruchán An Chláir & others

- Points raised broadly similar to the above.

John Joseph Tierney, Claremount

- Observer is entitled on foot of attached deed to a right of way through the lands the subject of this application.
- Not opposed in principle but objects to layout of roads, footpaths and green area which do not respect the right of way.
- Plans should be adjusted to respect route of right of way.

## 8.0 Assessment

8.1. Under the provisions of Section 177AE(6) of the Planning and Development Act, 2000 (as amended), the Board is required to consider the following in respect of this type of application:

- The likely consequences for the proper planning and sustainable development of the area;
- The likely effects on the environment; and
- The likely impact on any European sites.

## 8.2. The likely consequences for the proper planning and sustainable development of the area

- 8.2.1. The subject site fell within the development boundary of the Oughterard Local Area Plan, 2006-2012. The site was residentially zoned and situated on the western edge of the plan boundary. A review of the local area plan has not commenced; it is stated in the Galway County Development Plan, 2015-2021 that settlements with a population of over 1,500 persons shall have a local area plan in place, as statutorily required. Oughterard, however, is designated under the “other towns and villages (<1500)” category within the Settlement Hierarchy for Co. Galway where it is recognised that these villages “...*have strong settlement structures and have the potential to support additional growth, offering an alternative living option for those people who do not wish to reside in the larger key towns and do not meet the housing need requirements for the rural area...*”.
- 8.2.2. The Core Strategy provides rationale for population allocation and the amount and location of land proposed to be zoned, whilst also addressing over-zoning. It is stated that this approach will ensure that urban settlements are consolidated by keeping them as physically compact as possible, which in turn reduces travel demand and the use of more sustainable transportation modes.
- 8.2.3. The Core Strategy Table sets out population allocations and housing land requirements for each settlement for the Development Plan period. Oughterard is allocated a population of 131 which equates to a land requirement of 3.69 hectares for new residential development. It is noteworthy that a total of 88.9 hectares of land was zoned for residential development in the expired Local Area Plan.
- 8.2.4. As noted, the subject site is located on the periphery of the expired Local Area Plan development boundary at a walking distance of approximately 1.1km from the western end of Main Street and 1.5km from Market Square. Residential development in and around Oughterard has taken the form of housing estates, one-off dwellings and linear development, much of which is at a distance from the village core. The effect of this pattern of development is the presence of significant areas of undeveloped land around the historic core of the village. There are substantial land banks that were zoned residential in the expired Local Area Plan within 500m of the “town centre” zoning. Indeed, there is well in excess of the 3.69 hectare land

requirement within 200m of the area that was zoned “town centre”. The subject site at its closest point is approximately 650m from the “town centre” zoning.

- 8.2.5. The “leapfrogging” of development, whereby new development takes place at a remote location from the existing contiguous town/ village, is discouraged within Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities. This is reflected in Development Plan Objective UHO10, which endeavours to promote orderly and phased residential development and a presumption in favour of sequential development emanating from the town/ village core outwards.
- 8.2.6. Having regard to the above, I consider that the proposed development will have adverse consequences for the proper planning and sustainable development of the area. The subject site is substantially removed from the village core and is poorly connected in terms of safe pedestrian/ cycle routes. This would appear to have been acknowledged in the car dependent layout of the proposed scheme with priority and ease of circulation for motorists at the expense of the internal pedestrian environment. Concerns have also been expressed within submissions regarding the layout of the proposal, the impact on surrounding residential amenities and traffic safety and visibility for vehicles egressing onto the N59 National Secondary Route. These concerns would also appear to be valid.
- 8.2.7. I would therefore recommend that permission is refused on the basis that the proposal would be excessively car dependent and inconsistent with the orderly expansion of Oughterard.

### **8.3. The likely effects on the environment**

- 8.3.1. As noted above, there are a number of concerns set out in objections regarding the impacts of the proposed development on the surrounding environment with respect to issues of residential amenity, density, access and flooding. The submission from the Department of Culture, Heritage and the Gaeltacht also notes that no ecological impact assessment or equivalent is available. The application, however, is accompanied by an Environmental Impact Screening Report, an Appropriate Assessment Screening Statement and a Natura Impact Statement, as well as an Archaeological Impact Assessment.

- 8.3.2. In terms of impact on residential amenity, a number of observations highlight that the gardens of units 11-13 do not have sufficient depth and this will affect the privacy of adjoining residents to the south. It is also highlighted that mature trees along the northern boundary of the property to the south-east will have an overshadowing effect on proposed units 11-13.
- 8.3.3. The Development Plan states that private open space shall be designed for maximum privacy and orientated for maximum sunshine and shelter. I would have concerns regarding the quantity and quality of private open space to the rear of No's. 11-13 in view of the fact that these areas could be largely overshadowed by existing vegetation. These dwellings are between 3.5m and 4.3m to their rear boundaries when the dwelling opposite has a garden depth of 30m. In my opinion, this represents a poor layout and distribution of space within the site when there is such disparity between plot sizes.
- 8.3.4. With respect to public open space, it is stated in the Development Plan that the minimum acceptable area of useable open space on greenfield sites is 15% of the total site area (not including incidental lands). On brownfield, infill sites or all other sites, a minimum of 10% public open space will be required. The proposed green space in the centre of the site measures approximately 500 sq.m. which equates to approximately 7.9% of the 6.3 hectare site.
- 8.3.5. It is also stated in the Development Plan that the layout of residential development should be designed around the retention of existing natural features including trees, hedgerow, watercourses and landform features. The existing site will be leveled and regraded to facilitate the proposed development, thus removing all existing features. The proposal will also turn its back on the stream to the north of the site and impact on the existing riparian corridor. I would be in agreement with an observer that the green area is completely surrounded by roadway, thus impacting on the communal usability of this space.
- 8.3.6. A number of observers are concerned that the proposal will be developed at an excessive density having regard to the surrounding pattern of development. Urban periphery, outlying lands and areas with capacity/ environmental constraints are suggested in the Development Plan as appropriate locations for low density development in the order of 5-15 dwellings per hectare. It is stated in the

Sustainable Residential Development in Urban Areas Guidelines that “...it is appropriate in controlled circumstances to consider proposals for developments with densities of less than 15 - 20 dwellings per hectare along or inside the edge of smaller towns and villages, as long as such lower density development does not represent more than about 20% of the total new planned housing stock of the small town or village in question.”

- 8.3.7. As noted in an observation, the proposed development is equivalent to 27% of the total housing demand allocated to Oughterard in the Core Strategy over the Development Plan period (2015-2021). A low density proposal such as this would see the continuation of the unsustainable and unconsolidated pattern of development around the village. In my opinion, the development of the site at a density of at least 20 dwellings per hectare may be appropriate following the sequential development of the village from the centre outwards.
- 8.3.8. In terms of access, it is noted in the design statement accompanying the planning application that the junction of the N59/ L5330 should be examined for compliance with standards. Reference is made to Drawing AP05 for sight line distances; however, there does not appear to be any such drawing accompanying the planning application. I would therefore be of the view that the proposal may result in the intensification of an access onto a national road that is substandard in terms of available sight lines.
- 8.3.9. The application is accompanied by a Site Specific Flood Plain Report, which assesses the pluvial flood risk to the proposed development. It is concluded that the proposed development would not restrict, impede or reduce the flow in the channel, reduce or remove storage capacity from the existing flood plain, or increase potential flooding in any other section of the catchment. It is recommended to recontour the site to reduce the likelihood of flooding.
- 8.3.10. Observers have highlighted a number of other procedural issues with the planning application regarding the description of the proposal, the location of contiguous features and the notification of right to make observations and submissions. Should the Board be minded to grant permission for the proposed development, it may wish to seek further information in this regard.

#### 8.4. The likely significant effects on a European site

8.4.1. The areas addressed in this section are as follows:

- Compliance with Articles 6(3) of the EU Habitats Directive
- The Natura Impact Statement
- Appropriate Assessment

8.4.2. **Compliance with Articles 6(3) of the EU Habitats Directive:** The Habitats

Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

8.4.3. **The Natura Impact Statement:** The application was accompanied by a NIS which describes the proposed development, the project site and the surrounding area. The NIS is accompanied by a Stage 1 Screening Assessment which concluded that a Stage 2 Appropriate Assessment was required. The NIS outlined the methodology used for assessing potential impacts on the habitats and species within the European Sites that have the potential to be affected by the proposed development. It predicted the potential impacts for these sites and their conservation objectives, it suggested mitigation measures and assessed in-combination effects with other plans and projects. The NIS was informed by the following studies, surveys and consultations:

- A desk top study;
- Site visits undertaken on 20<sup>th</sup> July 2018 and 21<sup>st</sup> November 2018;
- An examination of aerial photography and maps;
- NPWS online mapping and datasets relating to European Sites including conservation management objectives;
- Information on land use zonings from myplan.ie;

- Water quality and catchment data from catchments.ie;
- GSi information on geology, groundwater and soils; and
- Information on site layout, construction approach, surface water, wastewater and water supply from design team and specialists.

8.4.4. The report concluded that, subject to the implementation of mitigation measures, the proposed development would not significantly impact on the qualifying interests of the relevant European Sites (Lough Corrib SAC and Lough Corrib SPA).

8.4.5. Having reviewed the NIS and the supporting documentation, I am not satisfied that it provides adequate information in respect of the baseline conditions, does/does not clearly identify the potential impacts, and does/does not use best scientific information and knowledge. Details of mitigation measures are provided, and they are summarised in Section 6 of the NIS. I am not satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

## 8.5. **Appropriate Assessment**

8.5.1. I consider that the proposed development of 13 no. dwellings units, car parking, provision of green space, connection to existing services and ancillary site development works is not directly connected with or necessary to the management of any European site.

8.5.2. Having regard to the information and submissions available, the nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

European sites considered for Stage 1 screening:

<b>European site (SAC/SPA)</b>	<b>Site Code</b>	<b>Distance</b>
<b>Lough Corrib SPA</b>	004042	1.7km
<b>Lough Mask SPA</b>	004062	14.2km
<b>Connemara Bog Complex SPA</b>	004181	8.2km
<b>Lough Corrib SAC</b>	000297	240m
<b>Ross Lake and Woods SAC</b>	001312	7.9km
<b>Lough Carra/ Mask Complex SAC</b>	001774	13km
<b>Maumturk Mountains SAC</b>	002008	11.1km
<b>Connemara Bog Complex SAC</b>	002034	4.3km
<b>Ballymaglancy Cave, Cong SAC</b>	000474	11.9km
<b>Kilkieran Bay and Islands SAC</b>	002111	15km
<b>Cloughmoyne SAC</b>	000479	11.7km
<b>Gortnadarragh Limestone Pavement SAC</b>	001271	7.1km

8.5.3. Based on my examination of the NIS report and supporting information, including the NPWS website, aerial imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would conclude that a Stage 2 Appropriate Assessment is required for two of the European sites referred to above {Lough Corrib SAC (site code 000297) and Lough Corrib SPA (side code 004042)}.

8.5.4. The remaining 10 sites can be screened out from further assessment because of the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances and the lack of a substantive linkage between the proposed works and the European sites. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No(s). 004062,



004181, 001312, 001774, 002008, 002034, 000474, 002111, 000479 and 001271 in view of the sites' conservation objectives and a Stage 2 Appropriate Assessment is not therefore required for these sites.

8.5.5. **Relevant European sites:** The Conservation Objectives and Qualifying Interests, including any relevant attributes and targets for these sites, are set out below.

Site Name	Qualifying Interests	Distance
1. Lough Corrib SAC	1029 Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> 1092 White-clawed Crayfish <i>Austropotamobius pallipes</i> 1095 Sea Lamprey <i>Petromyzon marinus</i> 1096 Brook Lamprey <i>Lampetra planeri</i> 1106 Salmon <i>Salmo salar</i> 1303 Lesser Horseshoe Bat <i>Rhinolophus hipposideros</i> 1355 Otter <i>Lutra lutra</i> 1393 Slender Green Feather-moss <i>Drepanocladus vernicosus</i> 1833 Slender Naiad <i>Najas flexilis</i> 3110 Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) 3130 Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea 3140 Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. 3260 Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) 6410 <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) 7110 Active raised bogs 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the Rhynchosporion 7210 Calcareous fens with <i>Cladium mariscus</i> and species of the Caricion davallianae 7220 Petrifying springs with tufa formation (Cratoneurion) 7230 Alkaline fens 8240 Limestone pavements 91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles 91D0 Bog woodland	240m

Site Name	Qualifying Interests			Distance
2. Lough Corrib SPA	<b>Bird Code</b>	<b>Common Name</b>	<b>Scientific Name</b>	1.7km
	A051	Gadwall	<i>Anas strepera</i>	
	A056	Shoveler	<i>Anas clypeata</i>	
	A059	Pochard	<i>Aythya ferina</i>	
	A061	Tufted Duck	<i>Aythya fuligula</i>	
	A065	Common Scoter	<i>Melanitta nigra</i>	
	A082	Hen Harrier	<i>Circus cyaneus</i>	
	A125	Coot	<i>Fulica atra</i>	
	A140	Golden Plover	<i>Pluvialis apricaria</i>	
	A179	Black-headed Gull	<i>Chrococephalus ridibundus</i>	
	A182	Common Gull	<i>Larus canus</i>	
	A193	Common Tern	<i>Sterna hirundo</i>	
A194	Artic Tern	<i>Sterna paradisaea</i>		

#### 8.5.6. Lough Corrib SAC (site code: 000297)

##### Conservation Objectives:

- The long-term aim for Degraded raised bogs still capable of natural regeneration is that its peat-forming capability is re-established; therefore, the conservation objective for this habitat is inherently linked to that of Active raised bogs (7110) and a separate conservation objective has not been set in Lough Corrib SAC.
- Depressions on peat substrates of the Rhynchosporion is an integral part of good quality Active raised bogs (7110) and thus a separate conservation objective has not been set for the habitat in Lough Corrib SAC.
- To restore or to maintain the favourable conservation condition of all other habitat/ species listed above and which are defined by the list of attributes and targets set out within European Site Documents.

#### 8.5.7. Lough Corrib SPA (site code: 004042)

##### Conservation Objectives:

- To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

- To maintain or restore the favourable conservation condition of the wetland habitat at Lough Corrib SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

**Potential direct effects:**

- Habitat loss and fragmentation.
- Habitat degradation resulting from emission to surface water – construction works involve clearance of vegetation, excavation of soil and movement of fill on site. This may give rise to the potential for increased sedimentation and silt run off.
- Fuel use and storage during works leads to the potential for pollution from leaks and spillages.
- Habitat degradation resulting from emission to groundwater.
- Habitat degradation resulting from the spread of non-native invasive species during works within the project site.
- Disturbance and/ or displacement of qualifying species from within or outside European Sites from increased noise, vibration and activity.
- Disturbance during operational phase from increased human presence and associated noise, lighting and traffic.

**Potential indirect effects:**

- Watercourse along norther boundary of site drains into the Owenriff River approximately 900m further east.
- Otters may potentially use the watercourse and riparian habitats present outside the site.
- Lesser horseshoe bat may potentially forage along stream corridor.
- Freshwater Pearl Mussel are present in the Owenriff River main channel.
- There is a supporting habitat for a number of other mobile species including Annex II species crayfish, lamprey and salmon downstream in the Owenriff catchment.

- Potential impact pathway exists in relation to risk of potential deterioration in water quality and effects on supporting habitats for wetlands and waterbirds.

**Potential in-combination effects:**

- A review of planning applications for the Claremount and surrounding townlands was carried out – given the nature of these applications (residential units and access roads), the potential for ongoing environmental effects and associated potential cumulative effects within the proposed development are low.

**Mitigation measures:**

- Construction works will be undertaken in accordance with the requirements of Inland Fisheries Ireland, the Construction Industry Research and Information Association, NRA guidance, Guidelines for the Management of Noxious Weeds and Non-Native Invasive Plant Species on National Roads and Guidelines for Protection and Preservation of Trees, Hedgerows and Scrub prior to, during and post construction of National Road Schemes.
- Earthworks – carried out in small progressive stages, minimising depths and volumes and with topsoil stored away from watercourse and monitored by staff.
- Provision of a silt fence to catch run off without water flowing underneath or around the edge – constructed in accordance with CIRIA standards with regular inspection.
- Fuel use and storage – location of works compound in centre of site, bunding of mobile storage and double skinned bowsers and generators, strict procedures for refuelling, plant maintenance, etc.
- Importance of preventing the spread of invasive species will form part of the tool box talk to all personnel prior to construction. Any additional topsoil and quarried stone will be screen for the presence of invasive species.
- Incorporation of strict biosecurity protocols into Construction Environmental Management Plans.
- Provision of Ecological Clerk or Works to supervise ground works.

### **Further analysis (Department of Culture, Heritage and the Gaeltacht)**

- Primary concern is the population of Annex II species, Freshwater Pearl Mussel in the main channel of the Owenriff River in Oughterard - fast-flowing Canrawer Stream flows directly into the Owenriff and a substantial part of the population of Freshwater Pearl Mussel occurs downstream of the confluence of these two watercourses.
- NIS is limited in terms of scientific data and analysis and no particular emphasis is placed on any habitat or species at risk.
- It is not shown how mitigation measures will negate the short to long term risks to Freshwater Pearl Mussel and no final analysis on risks to the river and implications for conservation objectives of the site.
- Development extends to within 3m of the stream and distance quoted in NIS is 14m – back gardens of some properties will back onto the stream and boundary treatment details unknown.
- Other than the use of a silt curtain during construction, no other protective measure or set back distances are included to provide for long-term safeguarding of the stream and its margins.
- Canrawer Stream appears to be in a highly natural state and fringed by a narrow band of woodland/ trees with ferns overhanging the bank – stream channel and interconnecting hedgerows may act as an ecological corridor. No surveys of mammals, birds or other aspects of biodiversity have been carried out – potential for Otter, Badger and bat presence and usage of the site clearly exists.

### **Appropriate Assessment Conclusions:**

- 8.5.8. Having regard to the nature of the proposed development, including proposals for site clearance, excavation and piling operations, together with the proximity of the adjoining tributary of Owenriff River, which forms part of the Lough Corrib SAC, and to the presence of a population of Freshwater Pearl Mussel downstream of the confluence of these two watercourses, as well as the lack of surveys of mammals, birds or other aspects of biodiversity along the stream channel, and notwithstanding the proposed mitigation measures, it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2

Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would adversely affect the integrity of the European site No's: **000297** and **004042** in view of the site's Conservation Objectives.

## 9.0 Recommendation

1. The Board agreed with and adopted the screening assessment and conclusion carried out in the inspector's report that the Lough Corrib SAC (Site Code 000297) and the Lough Corrib SPA (Site Code 004042) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for the Lough Corrib SAC (Site Code 000297) and the Lough Corrib SPA (Site Code 004042) in view of the Sites' Conservation Objectives.

In completing the assessment, the Board considered, in particular, the

- i. Likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects,
- ii. Mitigation measures which are included as part of the current proposal,
- iii. Conservation Objectives for these European Sites, and
- iv. Views of the Department of Culture, Heritage and the Gaeltacht.

In completing the AA, the Board accepted and adopted the Appropriate Assessment carried out in the inspector's report in respect of the potential effects of the proposal on the integrity of the aforementioned European Sites, having regard to the sites' Conservation Objectives.

Thus, the Board is not satisfied that the Local Authority has demonstrated that the proposal would not adversely affect the integrity of the European Sites in view of the sites' Conservation Objectives, as this proposal would entail site clearance, excavation and piling operations in proximity to the adjoining tributary of Owenriff River, which forms part of the Lough Corrib SAC, and which contains a population of Freshwater Pearl Mussel downstream of the confluence of these two watercourses. In addition, it is concluded that there is a lack of surveys of

mammals, birds or other aspects of biodiversity along the stream channel where there is potential for local or nearby Otter, Badger and bat presence and usage of the site.

In overall conclusion, the Board is not satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the sites' Conservation Objectives.

### **Other Reasons for Refusal on planning and other environmental grounds**

2. The "Sustainable Residential Development In Urban Areas -Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in May, 2009, recommends a sequential and co-ordinated approach to residential development, whereby undeveloped lands closest to the core and public transport routes be given preference. Notwithstanding the residential zoning objective for the site within the expired Local Area Plan, it is considered that the site is located in an area which is remote and isolated from the village core and its development would not be in line with the orderly expansion of the settlement. Having regard to the lack of a pedestrian linkage and the excessive walking distance to the centre of Oughterard, the absence of public transport to the village centre and the lack of social and community facilities in the vicinity, it is considered that the proposed development would be excessively car dependent and would, therefore, be contrary to the Guidelines and to the proper planning and sustainable development of the area.
3. The proposed development, by reason of its inadequate qualitative and quantitative provision of communal open space, and the uneven distribution of plot sizes and associated private open spaces, would give rise to a substandard form of development that would conflict with the provisions of the current Development Plan for the area and with the minimum standards recommended in the "Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities" published by the Department of the Environment, Heritage and Local Government in December, 2008. Furthermore, the proposal would constitute a car dominant layout that would militate against an attractive pedestrian environment and would generate additional traffic turning movements

at a junction onto a national road where adequate sightlines have not been demonstrated. The proposed development would seriously injure the residential amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Donal Donnelly  
Planning Inspector

24<sup>th</sup> July 2019