



An  
Bord  
Pleanála

## Inspector's Report

### ABP-304665-19

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<b>Development</b>	Outline permission for demolition of house and construction of 54 residential units.
<b>Location</b>	Athlone Road, Charlestown, Mullingar, Co. Westmeath
<b>Planning Authority</b>	Westmeath County Council
<b>Planning Authority Reg. Ref.</b>	186201
<b>Applicant(s)</b>	Joe Ganly.
<b>Type of Application</b>	Outline permission.
<b>Planning Authority Decision</b>	To grant with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Waterways Ireland.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	23 <sup>rd</sup> October 2019
<b>Inspector</b>	Deirdre MacGabhann

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## 1.0 Site Location and Description

- 1.1. The 2.29ha appeal site lies c.2.5km to the west of Mullingar town centre. The site lies to the south of, and directly adjoins, the R390 c.200m west of its junction with the R392 (Weldon's Cross).
- 1.2. The appeal site comprises an existing detached property, its curtilage and two agricultural fields to the south of the property. The overall landholding extends to the south of the site and includes a further agricultural field. This field adjoins the Royal Canal and a pedestrian walkway along its northern bank.
- 1.3. The site falls gently from the regional road towards the Royal Canal. There are substantial hedgerows with mature trees along site boundaries and within the site, separating the agricultural fields. Along the eastern boundary of the site is a shallow field drain/watercourse with water making its way down to a culvert under the Royal Canal to the south east of the appeal site. Opposite the appeal site, north of the R390, is a group of 6 houses and the Cloon Lara housing estate to the west of these.

## 2.0 Proposed Development

- 2.1. The proposed development, as revised by way of further information on the 23<sup>rd</sup> January 2019 and clarification of further information on the 23<sup>rd</sup> April 2019 (re-advertised in February 2019), comprises the demolition of the existing dwelling house on the site and construction of 54, two storey residential units, as follows:
  - 24 no. 3 bedroom semi-detached properties.
  - 10 no. 4 bedroom semi-detached properties.
  - 10 no. 2 bedroom terraced houses.
  - 8 no. 1 bedroom apartments.
  - 2 no. 4 bedroom detached properties.
- 2.2. Density of development is c.24 units per hectare and residential units are situated around an internal estate road. Open space is provided in two areas, one towards the north of the site and one to the south. The southern area adjoins zoned open space alongside Royal Canal. An area of land alongside the R390 is indicated for future road widening.

- 2.3. A pedestrian route is shown along the eastern boundary of the site (see Outline Sketch plan and Proposed Road Design & Watermain Layout Site Plan submitted in June 2018) but this is not shown or detailed in later drawings (e.g. and Proposed Road Design & Watermain Layout Site Plan submitted in January 2019).
- 2.4. Existing boundary hedgerows are to be retained but the internal hedgerow will be removed. Foul water will be discharged via a gravity-based system into the public sewer (see Response to request for further information, item 6). Surface water will discharge via an attenuation area (to restrict flows to greenfield levels) to the stream running along the eastern boundary of the site.
- 2.5. The planning application includes:
- An Appropriate Assessment Screening Report.
  - Civil Engineering Specification (details in respect of water supply, surface water and foul water).
  - An Arboricultural Report (this refers to Drawing No. 18-059-01 which is attached but not titled).

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. On the 17<sup>th</sup> May 2019 the planning authority decided to grant outline permission for the development subject to 20 conditions, including:
- No. 2 – Development to comply with specified requirements including:
    - Access to R390 to be temporary until the proposed roundabout at the junction of the R390/R392 is provided and access to the site and adjoining zoned lands will be via a spur from this roundabout.
    - Provision of right turning lane on the R390 into site.
    - Provision of a 3m footpath/cycleway along the site frontage.
    - Provision of pedestrian/cyclist connectivity between the site and the canal.
    - Revised arrangements for orientation of houses alongside the regional road and adjoining public open space.

- Inclusion of blue lands to the south of the site as public open space.
- No. 5 – Control of landscaping.
- No. 9 – Part V.
- No. 10 – General development contribution.
- No. 11 – Supplementary development contribution (Clonmore Link Road and Robinstown Link Road).
- Nos. 12, 13 and 14 – Special development contribution in respect of contributions towards:
  - Right turning lane into residential zoned lands.
  - Cycleway/footpath and public lighting from the development along the south side of the R390 to the junction at Weldon’s Cross.
  - Roundabout at Weldon’s Cross.
- No. 16 – Details of road design.
- No. 17 - Surface water, including that surface water be attenuated to discharge at a rate not exceeding 5l/s/ha.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- 15<sup>th</sup> August 2018 – Raises concerns regarding aspects of siting/layout, open space, density and dwellings to meet local needs under Part V. The report recommends further information to include an increase in density in accordance with the Department’s guidelines on Sustainable Residential Development in Urban Areas, revised layout to comply with DMURS, revised layout to retain trees and hedgerows as far as possible within and surrounding the site, provision of usable open space, revision of site boundary to include open space area to the south, access to the canal path, revised calculations for surface water and consideration of integrated wetland area in public open space, compliance with policies of the Mullingar Local Area Plan (P-RDL7, P-REDL8 and O-RDL3), consultation with Irish Water (for proposed waste water pumping station) and matters raised in submissions.

- 28<sup>th</sup> February 2018 – Seeks further clarification on hedgerows to be removed, capacity of local schools, land level changes proposed (with gravity sewer), layout of dwellings alongside R390, layout of open space in relation to housing, treatment of front and side gardens, provision of footpaths, connectivity of site with lands to south and Royal Canal, use of area of land to the south of the site as open space (potentially freeing up land within the site for development) and arrangements for access to the R390.
- 17<sup>TH</sup> May 2019 – Considers that matters in respect of hedgerow/tree retention, education capacity and land level changes have been addressed. Other matters can be addressed by condition. Recommends granting permission subject to condition.

### 3.2.2. Other Technical Reports

- Area Engineer (28<sup>th</sup> July 2018) – Applicant has under calculated impermeable area of the site. Recommends conditions, including that volume of proposed attenuation tanks is recalculated and surface water runoff does not exceed 5l/s/ha.
- Area Engineer (28<sup>th</sup> February 2019) – Culvert under Royal Canal was inspected and found to be operating normally. Land owner on opposite side of the canal/old rail line has recently cleaned out drains which appears to be lowering the water levels at the culvert outfall. Given the proposed floor level of the development and the canal bank levels, a blockage of the culvert will not lead to flooding of the development. Recommends conditions, including attenuation of surface water to 5l/s/ha.
- Housing (4<sup>th</sup> July 2018) – Standard Part V condition to apply.
- Transportation (13<sup>th</sup> February 2019) – Existing junction R390/R392 (Weldon's Cross) is over capacity and substandard as a priority junction. It is proposed to upgrade the junction to a four-arm roundabout, with one arm providing access to all land zoned south of the R390. Applicant should be asked to submit a TIA for the site and adjacent zoned lands. Until a TIA is submitted, the provision of another simple priority junction onto the R390 at this location would be considered premature (would contribute to further congestion at the

R390/R392 junctions at peak times). The increased traffic turning movements from the development would reduce the safety of the road and the priority junction.

- Transportation (10<sup>th</sup> May 2019) – Recommends conditions to be attached to a permission. These include that the proposed access onto the R390 road is temporary until such time as when the proposed roundabout for Weldon's Cross is constructed (development will then be via a spur from this roundabout).
- Transportation (17<sup>th</sup> May 2019) – Cost estimates for special development contribution (levy for Weldon's Cross roundabout, right turning lane into site, widening of Athlone Road to facilitate the above and 3m footpath/cycle lane along site frontage).
- Housing (4<sup>th</sup> July 2018) – Part V to apply.

### 3.3. Prescribed Bodies

- Department of Culture, Heritage and the Gaeltacht (24<sup>th</sup> July 2018) – It has the potential to destroy a significant area of mature hedgerow habitat (c.686m) that supports and connects important species of bats and pollinators with the adjoining hedgerow habitat of the nearby Royal Canal pNHA. Recommends retention of mature hedgerow boundary.
- Waterways Ireland (23<sup>rd</sup> October 2018) – Surface water will discharge from the site to a stream and subsequent culvert (c.400mm x 300mm) that flows under Royal Canal. The culvert has generally functioned properly catering mostly for flows from adjoining agricultural lands. The proposed development is a departure from this original use and a comprehensive analysis of the culvert structure (internal condition and capacity of increase in flows) and any obstructions downstream is required. The culvert crossing has been subject to upstream water back up during periods of rainfall and the low marshy ground north of this culvert is evidence of this. Recommends that no decision is made until infrastructural analysis carried out and if necessary any approved upgrade put in place.



- Waterways Ireland (12<sup>th</sup> February 2019) – Visual inspection by applicant is inadequate.
- Waterways Ireland (1<sup>st</sup> March 2019) – Are concerned that all zoned lands north of the Royal Canal in the area have no outlet other than a 350mm diameter siphon culvert that goes under the canal. Lands are saturated in the vicinity of the inlet culvert and lands to the south of the culvert are prone to flooding. Ponding south of the Royal Canal is an indication of poor downstream drainage patterns. Waterways Ireland is not a service provider and it is not their function to cater for infrastructure requirements that need to be upgraded as a result of rezoning of lands.

### 3.4. Third Party Observations

3.4.1. The following matters are raised by third parties:

- Development is not in accordance with proper planning and development, is piecemeal and uncoordinated.
- Access is onto a very busy Regional road, located on a bend and close to a major junction. Sightlines can be further reduced with traffic queuing towards Mullingar. Traffic already queues on the road at school opening and closing times and during the evening between 4.30pm and 6pm. Sun in the evening restricts views of traffic coming from Athlone. Detached houses at entrance to site are too close to the main road and may result in traffic queuing on the Athlone Road. Athlone Road floods very quickly when it rains (opposite the appeal site). Athlone Road is too narrow to cater for the traffic using it. Land was acquired by the Council to widen it. The proposed development includes council land on the other side of the road. Large vehicles, e.g. bin lorries, will have difficulties manoeuvring into the site. Development constitutes a traffic hazard.
- Development would impose unsustainable pressure on water supply, sewerage and surface water systems in the area.
- Impact on residential amenity in well-established neighbourhood. Impact of lights from cars leaving the development on adjoining properties. Noise from vehicles entering/exiting new development.

- Open space alongside main road is potentially dangerous for children.
- Capacity of stream running along eastern side of site to accommodate surface water. The stream already takes surface water from Athlone Road and the observers houses. During winter part of the proposed site and the land adjacent to (Mullingar side) floods near the road.
- Lack of social infrastructure. The local school is full and currently has a waiting list.

## 4.0 Planning History

- PA ref. 07/5217 and PL25M.227302 – Permission granted by the Board in 2008 for a mixed-use development of 279 residential units, a community centre, creche and neighbourhood centre on a larger site, extending to the east and west of the appeal site. Permission was extended on the 13<sup>th</sup> April 2013 for a period of 5 years and was due to expire on the 19<sup>th</sup> June 2018. The development included arrangements for the discharge of attenuated surface water to a stream to the west of the site (and west of the appeal site), with the stream running under the Royal Canal (see Hydrological Report on Stream, September 2007 in history file).

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The proposed development falls within the administrative area of the Westmeath County Development Plan 2014 to 2020 and the Mullingar Town Development Plan 2014 to 2020. The majority of the site is zoned 'Proposed Residential', with the existing property zoned 'Existing Residential'. For both zonings, policy O-LZ1 applies, 'To provide for residential development, associated services and to protect and improve residential amenity.' To the south of the site, a strip of land along the Royal Canal is zoned 'Open Space'. Policies in respect of residential development are set out in section 2 of the Plan and include policies in respect of sustainable residential development, design and layout, public and private open space. In section 2.11, Residential Density, the plan requires units 30 to 35 per hectare in

outer suburban/greenfield sites and 20-35 units per hectare in outer edge of urban/rural transition sites.

- 5.1.2. Transport and movement policy objectives include the construction of a roundabout at Weldon's Cross on the R390 (Policy O-TM25) and, under Surface Water, Policy P-SW1 seeks to incorporate and promote the use of Sustainable Urban Drainage Systems within development proposals.

## 5.2. Natural Heritage Designations

- 5.2.1. The appeal site is generally removed from sites of nature conservation, including European sites (see attachments), except for the Royal Canal which lies c.50m to the south of its southern (red line) boundary, which is designated as a proposed Natural Heritage Area (site code 002103). The site synopsis states that the ecological value of the canal lies more in the diversity of species it supports along its linear habitat than in the presence of rare species and its route through agricultural land providing a refuge for species threatened by modern farming methods.

## 5.3. EIA Screening

- 5.3.1. The proposed development is of a type that constitutes an EIA project and is a sub-threshold project under Class 10(b)(i) Part 2, Schedule 5, of the Planning and Development Regulations, 2001 (as amended), construction of 500 dwelling units. However, the proposed development of 54 units is:

- Well below the threshold set out in the Schedule,
- Is a type of development which is not likely to give rise to the use of significant natural resources or the production of wastes, pollution or environmental nuisance,
- Is proposed on a site that adjoins an established urban area, on agricultural land which is relatively abundant in the area.

- 5.3.2. Consequently, potential impacts on the environment are unlikely to be significant, either by magnitude, special extent or nature of impact. There is, therefore, no real likelihood of significant effects on the environment based on the nature, size and location of the proposed development.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. There is one third party appeal in respect of the proposed development made by Waterways Ireland. Grounds of appeal relate to the discharge of surface water from the development and the suitability of the siphon type culvert crossing under the Royal Canal to cater for current land discharge plus the proposed development. The appellant attaches recent photographs of the culvert, and state that these indicate a build-up of debris at the inlet point. It is also argued that:

- Whilst the culvert can cater for average rainfall events, the culvert tends to back-up at the inlet point during periods of prolonged rainfall resulting in excess waters, not discharging into the culvert, lodging on the adjacent lands upstream i.e. suggesting that the infrastructure crossing the Royal Canal is overburdened.
- Condition no. 17 of the permission states that post attenuation water shall 'discharge to the drain', is wholly inadequate and leaves the development and the surrounding land in the hands of climatic conditions.
- As part of Local Authority Adaption Strategy Development Guidelines (December 2018), the planning authority are obliged to anticipate future issues around climate change. The culvert and the expectation of it to cater for increased or altered runoff highlights the vulnerability of such historical infrastructure and the susceptibility of a system to be adversely affected.
- The development, and possible future development potential in the area, requires detailed designed surface water drainage outlets with associated modelling.
- The applicant is discharging attenuated flows into a drain on his property. Thereafter for c.70m the drain flows through third party lands which raises concerns regarding maintenance issues along this section of drain and the inlet point to Waterways Ireland culvert.
- Over time the design parameters for the culvert have changed and its original construction is now inadequate and under strain from severe weather events. Any surcharge could render the culvert inoperable.

- The Royal Canal and its related infrastructure are fine examples of Industrial Archaeology. The integrity and function of such infrastructure must be addressed and mitigated for when deciding new planning applications.
- Should the siphon not have the capacity to cater for this runoff the ponding of waters upstream or downstream could materially affect the embankment strength and result in a possible breach with widespread ramifications.
- Condition no. 2 of the permission requires for the provision of pedestrian and cyclist connectivity between the site and the Canal. As landowners, Waterways Ireland state that they have not been contacted or approved any works or access to lands.

## 6.2. Applicant Response

- Surface water from the development will be attenuated to green field levels and will improve flows into the drain, eliminating peaks in rain water flow.
- The culvert drains c.10ha, a small area compared to the land area drained by neighbouring culverts.
- Debris at the entrance to any culvert/drain needs to be cleared. It is part of Waterways Ireland's remit to maintain the navigable waterway including banks and culverts that form and protect it. Under Riparian rules and obligations each landowner is responsible for letting water pass unobstructed through their lands.
- Saturated land upstream of the culvert – This is saturated because it is low lying, below the level of the inlet to the culvert, and therefore naturally a wetland.
- None of the lands are in a flood plain and the culvert has never caused flooding. The development land is high and dry and is even higher than the canal itself. Even if the culvert were to block or become overwhelmed, the development would not be flooded (i.e. it would be impossible for the water level to rise higher than the canal).
- The U-shaped design of the culvert necessitates that it is always full of water.

- Condition no. 17 – The planning authority are making it clear that the storm water discharge after attenuation is to discharge to the drain not the sewage system.
- The existing system has not failed, is in good working order (see County Engineers Report) has surplus capacity (see Gordon Mitchell Consulting Engineers Report), the development will reduce flows into it, all other housing developments in the area channel water through similar culverts to the canal without incident.
- Ponding south of the canal and downstream of the culvert, referred to by Waterways Ireland, cannot be caused by the culvert (water flows downhill), but lack of drain maintenance further downstream. Landowners south of the railway line have carried out extensive drainage works this year, which is confirmed in the County Engineer's Report. The pond referred to has been drained. Potential risk of back up from the pond has been removed.
- Assessment of the culvert. The cleaning and maintenance of the culvert under the Royal Canal is the responsibility of Waterways Ireland. However, the applicant has tried to engage a Hydrologist to survey the culvert but has been unable to do so in the timescale of the appeal (4 week period). An extension of time was sought to carry this out, but it was refused. The applicant agrees to provide these services if required, with the agreement of Waterways Ireland

### 6.3. **Planning Authority Response/Observations/Further Responses**

- None.

## 7.0 **Assessment**

- 7.1. This appeal relates to a planning application for outline permission for a residential development on zoned lands. The planning authority's decision to grant permission addresses matters of principle. Conditions of the permission set out requirements to be addressed in any subsequent application.

7.2. Matters raised in the appeal relate to a single matter, surface water drainage. Having regard to the policy context for the proposed development, written submissions and technical reports, I am satisfied that the appeal can be generally confined to this matter. However, I also comment below on the matter of density of the development, links to the canal and inclusion of blue lands.

### 7.3. **Surface Water**

- 7.3.1. The applicant proposes the discharge of surface waters arising on site (from proposed dwellings, driveways and roadway) via the small watercourse running along the eastern boundary of the site, with attenuated flows to 5L/s/ha (see response to request for FI, section 2.4.1). An attenuation tank and hydrobrake system is proposed to the south east of the appeal site (see Drawing no. 18-059-02 Proposed Surface Water Sewer Site Layout Plan). The stream running along the eastern boundary of the site discharges to a culvert under the Royal Canal.
- 7.3.2. The appellant raises concerns regarding the capacity of the culvert. I note that there is no technical information by the appellant on the condition or capacity of the culvert and that reports by the planning authority's Area Engineer and the applicant's Engineer both state that, on examination, the culvert appears to be in good condition working normally. At the time of site inspection, I noted that water at the inlet of the culvert had reached the top of the inlet and that a small pool of water lay upstream alongside the culvert (see photographs), at this same level. However, there was no substantial body of water backing up in the stream or clear evidence that this had occurred in the past. I did note that the low-lying areas of the fields on each side of the culvert were quite wet underfoot, but there was no evidence that the culvert was in any way impeding flows. South of the Royal Canal, I note that works have been carried out to the drain on the opposite side.
- 7.3.3. As stated, the applicant proposes attenuating flows arising on the site to green field levels. Consequently, there should be no increase in surface water discharge to the stream over and above existing levels. Notwithstanding this, Waterways Ireland raise legitimate concerns regarding the individual and cumulative effect of surface water discharge from the appeal site, and wider zoned lands, on the integrity of the canal, particular with regard to the risk of greater flows as a consequence of climate

change. I would recommend, therefore, that a condition survey of the culvert is required to establish its condition and capacity, factors which influence its operational capacity and issues which may arise as a consequence of climate change.

- 7.3.4. In addition to the above, I note that the applicant was asked to consider the provision of an integrated wetland area in the open space zoning for surface water attenuation. In the interest of managing and treating flows on site, and biodiversity, I would recommend that a condition of any permission requires the integration of this (and/or other appropriate sustainable drainage system) into the site. Section 34(4)(a) of the Planning and Development Act 2000 (as amended) is relevant in this regard. It states that conditions of a permission may include those for regulating the development or use of any land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant and is expedient for the purposes of or in connection with the development authorised by the permission.

#### 7.4. Density

- 7.4.1. The National Planning Framework sets out strategic goals to provide compact cities, a well-designed public realm and increased residential density in the interest of sustainability (strategic objectives, national policy objectives 13 and 35).
- 7.4.2. The Government's Guidelines on Sustainable Residential Development in Urban Areas define outer suburban/greenfield sites as '*open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops employment and community facilities*'. The guidelines require the development of outer suburban/greenfield sites at a density of 35-50 units per hectare, in the interest of land efficiency, with development at net densities less than 30 dwellings generally discouraged. Section 5.12 states that '*to facilitate a choice of housing types within areas, limited provision may be made for lower density schemes provided that, within neighbourhood or district as a whole, average densities achieve any minimum standards recommended above*'. Table 2.6 of the Mullingar Local Area Plan 2014 to 2020 require a residential density of 30-35 units/ha on outer suburban/green field sites and 20-35 units per hectare on urban/rural transition sites.



- 7.4.3. The appeal site lies to the south west of Mullingar town, on open agricultural land on the periphery of a large town and whose development requires the provision of new infrastructure. I would consider that it represents an outer suburban/greenfield site. Whilst the site lies to the south of lower density residential development, it is bound by Regional road to the north, further zoned lands (for residential development) to the west and east of the site and the Royal Canal to the south.
- 7.4.4. Constraints on site would appear to be confined to mature trees and hedgerows bounding and within the site. Subject to adequate safeguards in respect of these features, I would consider therefore that there are no reasons why a density of between 30-35 units/ha cannot be achieved on the site. I also note that in their previous decision to grant permission for a residential development of the appeal site (and adjoining lands), the Board required a density of c. 40 units/ha (based on 289 units on a net residential area of c.7ha).

## **7.5. Links to Canal**

- 7.5.1. The appellant raises concerns regarding condition no. 2 of the planning authority's grant of permission which requires provision of a pedestrian and cyclist connectivity between the site and the canal i.e. that as landowners they have not been contacted or approved any works or access to lands.
- 7.5.2. Policies of the Mullingar Town Development Plan seek to develop a green infrastructure in the town which is connected and function (see Policy P-GFI and Objective O-GFI). Within this context, the provision of greater access to the footpath alongside the Royal Canal does not seem as part of any permission for the development on site. Liaison with and the consent of Waterways Ireland could be addressed by condition.

## **7.6. Inclusions of blue lands as open space**

- 7.6.1. The planning authority require, in condition no. 2(k) of their permission, that the blue lands to the south of the appeal site be included as public open space. I note that the public open space forms part of a larger area to be created to the north of the Royal Canal and in this regard it is a stated objective of the Mullingar LAP. Further, for the reasons stated, I recommend that it also provide an integrated wetland to

serve the development. It is, therefore, reasonable and necessary. In this regard I note that paragraph 7.3.1 of the Development Management Guidelines states *'It is not enough to be able to say that a condition will do no harm: if it is to be justified, it ought to do some good in terms of achieving a satisfactory standard of development and in supporting objectives of the development plan.'*

## 8.0 **Appropriate Assessment**

- 8.1. European sites. The appeal site is physically removed from European sites, with the nearest Lough Ennell SPA and SAC (site codes 004044 and 000685 respectively) c.2km to the south of the site and Lough Owel SPA and SAC (site code 004047 and 000688 respectively).
- 8.2. Conservation objectives. Features of interest for the two sites are:
- Lough Ennell SPA – Pochard (*Aythya ferina*), Tufted Duck (*Aythya fuligula*), Coot (*Fulica atra*), Wetland and Waterbirds.
  - Lough Ennell SAC – Alkaline fens.
  - Lough Owel SPA – Shoveler (*Anas clypeata*), Coot (*Fulica atra*) and Wetlands and Waterbirds.
  - Lough Owel SAC - Hard oligo-mesotrophic waters with benthic vegetation of *Chara* spp., Transition mires and quaking bogs, Alkaline fens, *Austropotamobius pallipes* (White-clawed Crayfish).
- 8.3. Conservation objectives are generic for Lough Ennell SPA and Lough Owel SPA are generic, to maintain or restore the favourable conservation condition of the habitats or species listed. For the SACs, these are to maintain or restore the favourable conservation condition of the habitats listed by reference to stated attributes and targets.
- 8.4. Potential Effects. Direct or indirect impacts as a consequence of land take or disturbance, are highly unlikely given the distance of the appeal sites from the European sites. Potential effects could arise if the appeal site is hydrologically connected to either of the Loughs. The applicant's Appropriate Assessment Screening Report states that there is no connectivity with European sites. However, OS mapping would suggest that surface water courses south of the Royal Canal

drain into Lough Ennell, indicating a potential pathway surface water discharged from the drain to enter Lough Ennell.

- 8.5. Likelihood of Effects. In the absence of proposed mitigation measures, surface water arising on site would discharge unattenuated and unfiltered into the adjoining watercourse and would make its way along a series of watercourses over a distance of c.2km to Lough Ennell. Over this distance, any pollutants would most likely be diluted and fine particles would settle out. Significant effects on Lough Ennell are therefore, unlikely to arise.
- 8.6. Appropriate Assessment Conclusion. Having regard to the foregoing, it is 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 Nos. 004044 and 000685, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 9.0 Recommendation

- 9.1. I recommend that outline permission be granted for the proposed development, subject to conditions.

## 10.0 Reasons and Considerations

Having regard to the nature, scale and form of the proposed development, including detailed arrangements to attenuate flows of surface from the site to green field levels, it is considered that, subject to compliance with the conditions set out below, the proposed development would not give rise to flooding and would not seriously injure the amenities of the area or property in the vicinity of the site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 23<sup>rd</sup> day of July, 2019 and the 23<sup>rd</sup> April 2019 , except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>This outline permission relates solely to the principle of the development on this site. It shall not be construed as acceptance of any particular layout or other particulars submitted.</p> <p><b>Reason:</b> In the interest of clarity.</p>
3.	<p>Plans and particulars to be lodged for permission consequent on this grant of outline permission shall include:</p> <ul style="list-style-type: none"> <li data-bbox="347 1240 1385 1442">(i) A condition and capacity survey of the culvert under the Royal Canal into which surface water discharges, an assessment of the factors which may influence its operational capacity and issues which may arise as a consequence of climate change.</li> <li data-bbox="347 1464 1385 1778">(ii) Provision of a surface water drainage system to take into account findings of the condition survey, provision of attenuated flows from the site to 5L/s/ha and inclusion of an integrated wetland (and/or other appropriate sustainable drainage system) in lands to the south of the application site, within the ownership of the applicant.</li> <li data-bbox="347 1800 1385 1957">(iii) A revised layout to provide an increased density to comply with section 5.11 of the Guidelines for Planning Authorities on Sustainable Development in Urban.</li> <li data-bbox="347 1980 1385 2024">(iv) Temporary arrangements for providing access to the site from</li> </ul>

	<p>the R390, including right turn lane, and arrangements for long term access to the site from the proposed Weldon's Cross roundabout junction.</p> <ul style="list-style-type: none"> <li>(v) Provision of a 3m wide footpath/cyclepath along the frontage of the site and pedestrian and cyclist connectivity between the site and the Royal Canal (subject to agreement with Waterways Ireland).</li> <li>(vi) Details of the internal road network serving the proposed development, to comply with the detailed standards of the planning authority with the Design Manual for Urban Roads and Streets.</li> <li>(vii) Inclusion of land to the south of the application boundary, north of the Royal Canal, as public open space.</li> <li>(viii) Details of external finishes, boundary treatments, street furniture and public lighting.</li> <li>(ix) A detailed landscaping plan for the entire site including proposals for the retention/reinforcement of all existing site boundaries and future maintenance of soft and hard landscaping and street furniture.</li> <li>(x) Phasing of infrastructural works and services.</li> <li>(xi) Details for number in and naming of the development.</li> <li>(xii) Arrangements for the charging of electric vehicles.</li> <li>(xiii) Details of all services and cables to be located underground throughout the development.</li> <li>(xiv) A Construction Environmental Management Plan and a Construction Traffic Management Plan.</li> <li>(xv) Details of water and/or wastewater connection agreements with Irish Water.</li> </ul> <p><b>Reason:</b> In the interest of clarity and to define the subject matter for consideration at permission consequent stage.</p>
4.	Prior to commencement of development, the applicant or other person with

	<p>an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
5.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
6.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to</p>

	<p>commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
7.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure (Clonmore Link Road and Robinstown Link Road) in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the cost of supplying a right turn lane into the residential zoned lands. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for</p>

	<p>determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.</p> <p><b>Reason:</b> It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 as a contribution to the cost of supplying a cyclepath/footpath and public lighting from the proposed development along the south side of the R390 to the junction at Weldon’s Cross. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.</p> <p><b>Reason:</b> It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.</p>
10.	<p>The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 as a contribution to the cost of supplying a roundabout at Weldon’s Cross. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for</p>



determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

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

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Deirdre MacGabhann

Planning Inspector

4<sup>th</sup> November 2019