



An
Bord
Pleanála

Inspector's Report ABP-304779-19

Development	Construction of 90 houses and 2 garages
Location	Limerick Road, Sixmilebridge, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	18594
Applicant(s)	Drone Vision Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Drone Vision Limited
Observer(s)	None
Date of Site Inspection	25/09/2019
Inspector	Gillian Kane

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Planning Authority Reports	5
3.2. Prescribed Bodies	5
3.3. Third Party Observations	6
3.4. Request for further information.....	6
3.5. Response to Further information.....	7
3.6. Reports on File following Submission of FI	8
3.7. Request for Clarification of Further Information.....	8
3.8. Response to request for CFI	9
3.9. Reports on file following submission of Clarification of Further information ..	9
3.10. Decision	11
4.0 Relevant Planning History	11
5.0 Policy Context.....	12
5.7. Clare County Development Plan 2017-2023	13
5.8. Natural Heritage Designations	15
5.9. EIA Screening	15
6.0 The Appeal	16
6.1. Grounds of Appeal	16
6.2. Planning Authority Response	20
6.3. Observations	20
7.0 Assessment	20

7.2. Principle of the Proposed Development 21

7.3. Flooding 21

8.0 Recommendation..... 28

1.0 Site Location and Description

- 1.1.1. The subject site is located on the eastern side of the Limerick road, in the centre of Sixmilebridge, a village in east Clare. The village is concentrated around a central cross-roads, with a mix of housing, commercial and community uses. The village is approx. 8km from Shannon, 20km from Ennis and 14km from Limerick. The Athenry to Waterford train line passes through the village Sixmilebridge, serving both Ennis and Limerick.
- 1.1.2. The subject site is in agricultural use. It has frontage on to the Limerick Road to the north, with an entrance point between two existing dwellings. The eastern boundary comprises thick hedgerow and a watercourse. The southern boundary is a mix of hedgerow, tree line and a boundary wall for the adjoining Owengarney Court residential estate. The site slopes slightly to the north, culminating in a large raised area close to the northern boundary. An electricity line runs along the centre of the site.
- 1.1.3. Two dwellings are 'cut-out' from the site. Both two storey detached dwellings with large gardens, facing on to the Limerick Road.

2.0 Proposed Development

- 2.1.1. On the 20th July 2018, planning permission was sought for the construction of 90 no. houses, 207 no. carparking spaces, etc with a total floor area of 9,085sq.m. on a site of 2.77ha. This was revised to 83 no. dwellings and 188 no. car parking spaces, following the submission of further information.
- 2.1.2. The application was accompanied by the following:
 - Design Statement
 - Schedule of Accommodation
 - Transport and Mobility Statement
 - Services Report
 - Email from Irish Water

3.0 Planning Authority Decision

3.1. Planning Authority Reports

- 3.1.1. **Road Design Office:** Further information required regarding visibility splays, swept path analysis, public lighting design, cycle and mobility impaired parking, EV charging, turning bays, DMURS compliance, traffic management and construction plan, pedestrian crossings, improvement of cycling and pedestrian permeability, provision of a public path, contribution towards public lighting, signage.
- 3.1.2. **Architectural Conservation Officer:** Archaeological investigation and resolution of the site is recommended. Archaeological Impact Assessment required. Extent and location of trenches to be agreed and licensed by the National Monuments Service.
- 3.1.3. **Planning Report:** Principle of proposed development is acceptable. Permission to access from adjoining residential estate must be sought, notwithstanding that the proposed access is acceptable. Further information on bats required. FI request from Traffic and Archaeology noted. Layout of proposed car parking and internal is problematic. Separation distance between dwellings does not meet development plan standards. Three dwellings have less than 11m depth gardens but potential for overlooking is limited. Current layout may cause overlooking within and, of environs of the site. Proposed open space is limited in scale and function. Rear service lanes are not passively overlooked. Proximity to open water is a concern. Loss of trees on site will impact visual amenity. Proposed tower is problematic. Recommendation to request further information.

3.2. Prescribed Bodies

- 3.2.1. **OPW:** OPW buffer zone along the east of the site follows the route of channel 2 of the Sixmilebridge Flood Relief Scheme. This indicates the OPW's requirement for machinery access to carry out maintenance on the Flood Relief Scheme which was undertaken in the late 1990's. This area must be accessible and should not be landscaped, paved or otherwise developed in a manner that would prevent access. The services report submitted with the application is not a Flood Risk Assessment. A full FRA should be undertaken. The applicants report relies on OPW mapping in determining flood risk. This is contrary to the advice of the Guidelines. The applicant's submission that the floodmaps.ie website shows no risk of flooding is incorrect. Notwithstanding that the data is historical and does not prevent a

comprehensive record, it shows numerous records of flooding in Sixmilebridge. The records of November 2009 show that the Limerick Road was impassable. Aerial photographs from January 1995 shows flooding of the subject site. The Flood Relief Scheme following the 1995 flooding, provided flood defence embankments on the main river channel in this area to protect residential property. This could have the effect of increasing flood levels in other areas and would need to be carefully assessed in any flood risk assessment undertaken.

3.2.2. **Irish Water:** No objection.

3.2.3. **DAU:** Proposed development will have a direct impact on the archaeological sites CL052-078001-Burnt Mound and CL052-078002-Burnt Mound. Full excavation of these sites will be required. Given the scale and extent of the proposed development and the presence of known archaeological features it is possible that further subsurface archaeological remains could be encountered. Four conditions recommended to be attached to any grant of permission.

3.3. **Third Party Observations**

3.3.1. Objections to the proposed development relate to the adjoining housing estate Owengarney Court, access, development being out of character with the village, traffic and parking, one entrance point being insufficient, overshadowing, flood risk, trees, density, lack of surveys, right of way and architectural heritage.

3.4. **Request for further information**

3.4.1. On the 12th Sept 2018 the applicant was requested to address the following:

- Flood Risk Assessment
- Alteration to proposed layout
- Alteration to proposed open space
- DMURS and all items raised as a concern by the Roads Design Office,
- Impact of proposed development on bat roosts in the area
- Buffer zone along eastern boundary
- Archaeological Impact Assessment
- Letter of consent for pedestrian and cyclist connectivity to Owengarney Court
- Online Construction and Environmental Management Plan

3.5. Response to Further information

3.5.1. The applicant requested and was granted a three-month extension of time.

3.5.2. On the 8th February 2019 the applicant responded to the request for FI as follows:

- 1 **Flood Risk:** Site is not within a flood risk area. FRA attached. No part of the site is at risk of flooding and no houses are located within the immediate vicinity of the eastern boundary watercourse. The lowest floor level is 5.8mOD. The maximum 1in1000 year flood level is 5.16mOD. The proposed development will not affect the OPW programme. The system designed is adequate and floodwater mitigation measures are not required.
- 2 **Scale & Type of Development:** Proposed development accords with the Sustainable Urban Housing Guidelines. Development reduced to 83 no. dwellings. The site is removed from the village ACA and there are no protected structures nearby. The proposed density is 30 units per ha. The proposed scheme offers a wide range of housing.
- 3 **Protection of Residential Amenities:** Development is designed to be urban at edge, moving to suburban at east and south. 20% of site proposed as open space, in 4 no. areas. Proposed density could not be achieved if 3.2m separation was insisted on. Layout is revised to avoid overlooking. The existing hedgerow along the eastern boundary will be retained. In consultation with the OPW the existing culvert will be removed. If necessary a 1.1m high timber rail and concrete post mammal friendly fence can be erected. The proposed tower will not be a focus of anti-social behaviour due to its location in the centre of the site.
- 4 **Traffic:** Proposed development with revised layout complies with DMURS. A revised Transport & Mobility Statement is submitted.
- 5 **Existing Flora:** All existing flora is being retained and strengthened.
- 6 **Watercourse Buffer zone:** The current position of no access for OPW plant will remain unchanged.
- 7 **Protection of Archaeological Heritage:** An Archaeological report carried out in 2008 for Planning Authority reg. ref. P07/2386 covers the subject site. The Developer will abide by the recommendations set out in section 4.2 of the report.
- 8 **Consent for Boundary wall work:** Letter submitted.

9 Construction and Environmental Management Plan submitted.

3.5.3. The response was deemed significant and the applicant was requested to re-advertise.

3.6. Reports on File following Submission of FI

3.6.1. **Senior Executive Engineer:** Special contribution condition required for provision of a controlled, signalised pelican crossing to link the proposed development to the existing footpath.

3.6.2. **Roads Design:** Clarification required regarding differences in drawings. Development not compliant with DMURS re. one footpath, some parking, shared surfaces, turning head. Proposed public lighting plan shows obsolete luminaires. Clarification required regarding: shared surface specification, surface water drainage design for shared surfaces, road signage and electric car charging points. No swept path analysis provided. Clarification of further information required.

3.6.3. **Irish Water:** No objection.

3.6.4. **Second Planning Report:** Concerns regarding the residual risk of flooding on adjoining lands and surfacewater discharge calculations. Proposed density is acceptable. Clarification required regarding contiguous elevations, internal cross sections, proximity of dwellings to footpaths, fragmentation of open space, drawings of house type no. 8, rear service lanes, prevention of access to watercourse on the eastern boundary, treatment of seating area around central tower, issues raised by roads design office, cumulative impact of traffic, access to the watercourse by the OPW, consent for works to shared boundary wall and mitigation measures for site drainage.

3.7. Request for Clarification of Further Information

3.7.1. On the 19th March 2019, the Planning Authority requested the applicant to address the following:

- 1 Flood risk
- 2 Layout of proposed development, protection of residential and visual amenities
- 3 Traffic and Parking
- 4 OPW buffer zone

- 5 Consent for works to shared boundary wall
- 6 Onsite measures to prevent contamination of ground and surface waters.

3.8. Response to request for CFI

3.8.1. On the 26th April, the applicant responded to the request for a clarification of further information. The response can be summarised as follows:

- 1 **Flood Risk:** Site is not within a designated flood risk area. Flood Risk Assessment carried out and submitted with the response.
- 2 **Protection of Residential and Visual Amenities:** At a density of 30 no. dwellings per ha, the proposed development accords with the guidelines. Part of the layout reflects the traditional pattern of street housing in the village. This was favourably received by the Planning Authority at pre-planning. Layout was revised to 83 no. houses. Rear lane serving no.s 19-23 has been omitted. Existing hedgerow will be reinforced and supplemented. Proposed central tower are redesigned to be low maintenance. Contiguous elevation labels updated. House elevations redesigned. Proposed development is designed to be urban. There are no incidental green areas or open spaces.
- 3 **Traffic & Parking:** Revised layout plan addresses concerns and complies with DMURS. Swept path analysis submitted. Revised Transport & Mobility Statement submitted,
- 4 **Watercourse Buffer Zone:** The current position of no access for OPW plant will remain unchanged.
- 5 **Boundary wall:** The lands are owned by the applicant who can see the benefit of a pedestrian link to the adjoining residential area. If the Planning Authority want consent, it will be forthcoming.
- 6 **Prevention of contamination:** Care will be taken to prevent contamination during construction.

3.9. Reports on file following submission of Clarification of Further information

3.9.1. **Chief Fire Officer:** Four conditions recommended to be attached to any grant of permission.

3.9.2. **Roads Design Planning Report:** Issues not addressed: surface of table tops and parking bays, listed path widths and parking bay not in compliance, Auto-Track

analysis not convincing, public lighting required opposite main entrance, junction radii not demonstrated, signage not provided and no provision for disability parking and charging of electric vehicles.

- 3.9.3. **JBA Consulting on behalf of Clare County Council:** The FRA is not a sufficiently detailed assessment of risks to Owengarney or Channel C2. A stage 3 Flood Risk Assessment is recommended to include a detailed assessment of both the hydrological inflows and the downstream tidally influenced boundary. A hydraulic model of both watercourses should be developed for both the current and post-development scenarios. The assessment should not rely on CFRAM which appears to underestimate the risk. The study should also include an appraisal of the robustness of the defences and assessment of the residual risks in the event of defence failure or overtopping. The impact of blockage of the culverts, including sea level rise and an increase in fluvial flows, should be assessed for the post-development scenario. The Justification Test may need to be applied. The assessment should allow suitable mitigation measures in the form of layout design and finished floor levels. The impact of the development on neighbouring sites can then be assessed. It is recommended that permission be refused on the grounds that the flood risk has not been adequately assessed and the development does not meet the requirements or principles of the Flood Risk Guidelines.
- 3.9.4. **OPW:** Issues remain in relation to proposed works within the 5m buffer zone of the watercourse. The placement of chain-link fencing on the edge of the watercourse is contrary to the OPW's request that the area be kept free from development which would interfere with access for maintenance. A proper FRA would likely identify the requirement for works to the watercourse, to ensure sufficient capacity of the channel and the protection of the proposed development from flooding. This is unaddressed by the applicant.
- 3.9.5. **Housing Department:** Part V has been agreed in principle.
- 3.9.6. **Third Planning Report:** Having regard to the submission of the OPW and the report of the technical report commissioned by the Planning Authority, it is considered that issues of flood risk have not been adequately assessed. A number of issues raised by the Roads Design Report remain unresolved, as does consent for

works to the boundary wall. Recommendation to refuse permission for two reasons, relating to flood risk and the layout of the proposed development.

3.10. Decision

3.10.1. On the 5th June 2049, the Planning Authority issued a notification of their intention to REFUSE permission for the following two reasons:

- 1 Dwelling houses are classed as “ Highly Vulnerable Developments” in the Section 28 Ministerial Guidelines “The Planning System and Flood Risk Management Guidelines for Planning Authorities”, as issued by the Department of the Environment, Heritage and Local Government in 2009. Having regard to the proximity of the site to both the eastern watercourse and the Owengarney River, the onsite levels relative to said watercourses, the history of flooding on the site, and the content of the flood risk assessments received to date, the Planning Authority considers that on the basis of the information available the site is in an area which is at risk of flooding and therefore the proposed development would be contrary to the Ministerial Guidelines and the proper planning and sustainable development in the area.
- 2 Having regard to the location of the site within the settlement of Sixmilebridge, the existing settlement pattern in the area and the nature and scale of the proposed development, the Planning Authority considers that the proposed development would seriously injure the residential amenities of future occupants by reason of its overall layout in particular the poor connectivity between the proposed dwellings and the public open space areas, and the inclusion of internal roads that are dominated by on-street car parking. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

4.0 Relevant Planning History

4.1.1. Planning Authority reg. ref. **07/2386**: Planning permission granted for a mixed-use scheme comprising retail, residential, community and commercial uses. To comprise 79 no. residential units.

5.0 Policy Context

- 5.1. The government published the **National Planning Framework** in February 2018. Objective 3c is to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford. Objective 11 is to favour development that can encourage more people to live or work in existing settlements. Objective 27 is to prioritise walking and cycling accessibility to existing and proposed development. Objective 33 is to prioritise the provision of new homes that can support sustainable development. Objective 35 is to increase residential density in settlements.
- 5.2. The **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas** were issued by the minister under section 28 in May 2009. Section 1.9 recites general principles of sustainable development and residential design, including the need to prioritise walking, cycling and public transport over the use of cars, and to provide residents with quality of life in terms of amenity, safety and convenience. Section 5.11 states that densities for housing development on outer suburban greenfield sites between 35 and 50 units/ha will be encouraged, and those below 30 units/ha will be discouraged. A design manual accompanies the guidelines which lays out 12 principles for urban residential design.
- 5.3. The **Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments** were issued in March 2018. It contains several specific requirements with which compliance is mandatory. The minimum floor area for one-bedroom apartments is 45m², for two-bedroom apartments it is 73m² and for three-bedrooms it is 90m². Most of proposed apartments in schemes of more than 10 must exceed the minimum by at least 10%. Requirements for individual rooms, for storage and for private amenities space are set out in the appendix to the plan, including a requirement for 3m² storage for one-bedroom apartments, 6m² for two-bedroom apartments and 9m² for three-bedroom apartments. In suburban locations a minimum of 50% of apartments should be dual aspect. Ground level apartments should have floor to ceiling heights of 2.7m.
- 5.4. The minister issued **Guidelines for Planning Authorities on Urban Development and Building Heights (December 2018)**. Section 3.6 states that development in suburban locations should include an effective mix of 2, 3 and 4 storey development. SPPR 4 is that planning authority must secure a mix of building heights and types

and the minimum densities required under the 2009 guidelines in the future development of greenfield and edge of city sites

5.5. The minister and the minister for transport issued **the Design Manual for Urban Roads and Streets (DMURS) in 2013**. Section 1.2 sets out a policy that street layouts should be interconnected to encourage walking and cycling and offer easy access to public transport. Section 3.2 identifies types of street. Arterial streets are major routes, link streets provide links to arterial streets or between neighbourhoods, while local streets provide access within communities. Section 3.3.2 recommends that block sizes in new areas should not be excessively large, with dimensions of 60-80m being optimal and 100m reasonable in suburban areas. However maximum block dimensions should not exceed 120m. Section 4.4.1 states that the standard lane width on link and arterial streets should be 3.25m, while carriageway width on local streets should be 5-5.5m or 4.8m where a shared surface is proposed.

5.6. **The Planning System and Flood Risk Management Guidelines for Planning Authorities** (DOEH&LG 2009), distinguishes between three types of flood zones and the vulnerability of uses to flooding. The aims and objectives of the Guidelines is to: Avoid the risk, where possible, Substitute less vulnerable uses, where avoidance is not possible, and mitigate and manage the risk, where avoidance and substitution are not possible. Flood risk assessments (FRAs) aim to identify, quantify and communicate to decision-makers and other stakeholders the risk of flooding to land, property and people. The purpose is to provide sufficient information to determine whether particular actions (such as zoning of land for development, approving applications for proposed development, the construction of a flood protection scheme or the installation of a flood warning scheme) are appropriate.

5.7. **Clare County Development Plan 2017-2023**

5.7.1. The relevant Development Plan is the Clare County Development Plan 2017-2023. Sixmilebridge is located in the fourth tier of settlements under the Core Strategy and Settlement Strategy, 'Small Towns'.

5.7.2. Policies and Objectives of relevance include:

CDP 3.9 Development Plan Objective: Monitoring and Implementation of Settlement Strategy

a) To achieve the delivery of strategic, plan-led, co-ordinated and balanced development of the settlements throughout the County;

CDP 3.10 Development Plan Objectives: Planned Growth of Settlements

a) To ensure that the sequential approach is applied to the assessment of proposals for development in towns and villages and to ensure that new developments are of a scale and character that is appropriate to the area in which they are located;

CDP4.7 Housing Mix: It is an objective of the Development Plan: a) To secure the development of a mix of house types and sizes throughout the County to meet the needs of the likely future population in accordance with the guidance set out in the Housing Strategy and the Guidelines on Sustainable Residential Development in Urban Areas; b) To require new housing developments to incorporate a variety of plot sizes to meet the current and future needs of residents; c) To require the submission of a Statement of Housing Mix with all applications for multiunit residential development in order to facilitate the proper evaluation of the proposal relative to this objective.

CDP 15.8 Sites, Features and Objects of Archaeological Interest.

a) To safeguard sites, features and objects of archaeological interest generally;

b) To secure the preservation (i.e. preservation in situ or in exceptional cases preservation by record) of all archaeological monuments included in the Record of Monuments and Places as established under Section 12 of the National Monuments (Amendment) Act, 1994, and of sites, features and objects of archaeological and historical interest generally (in securing such preservation, the Council will have regard to the advice and recommendations of the Department of the Arts, Heritage, Regional, Rural and Gaeltacht Affairs);

c) To permit development only where the Planning Authority is satisfied that the proposals will not interfere with:

- items of archaeological or historical importance;
- the areas in the vicinity of archaeological sites;
- the appreciation or the study of such items.

5.7.3. Volume 3b of the Development Plan refers to Small Towns. The section of Sixmilebridge has a section on Housing and Sustainable Communities. It states that

Housing demand in Sixmilebridge in the recent past has been generated not only from locals but from commuting households, given its strategic location and accessibility to Ennis and Limerick by road and rail. The future development of housing in the town shall be closely aligned with the adequate provision of local facilities and services, including school capacity/future expansion plans, other community facilities and recreational/amenity areas. All sites zoned for residential development should incorporate sustainable urban drainage systems and shall include detailed proposals for landscaping/tree and hedgerow retention. Proposals for housing shall also ensure that provision is made for pedestrian/cycle connection to the town centre.

- 5.7.4. In relation to **flooding and flood risks**, the volume states that the Strategic Flood Risk Assessment (SFRA) in Volume 10c of this Plan advises in relation to the mixed-use area within the ACA. Any development within the flood zone would be redevelopment/renovation and would be justified by the central location in the settlement. Vulnerability of uses within the flood zones should be less vulnerable at ground floor level with risks addressed through development management. Where buildings are to be demolished and rebuilt, finished floor levels should be set to provide flood protection. It also advises that there is a limited number of existing residential buildings within Flood Zone A/B. Given the location and space, it is unlikely that these will be extensively expanded/ redeveloped, but if redevelopment of plots takes place, finished floor levels should be used as the primary means of addressing flood management.

5.8. **Natural Heritage Designations**

- 5.8.1. The subject site is 2.5km from Ratty River Cave SAC.

5.9. **EIA Screening**

- 5.9.1. Having regard to nature and scale of the development and the built-up urban location of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The First Party has appealed the decision of the Planning Authority to refuse permission. The grounds of the appeal can be summarised as follows:

- The Planning Authority's planning report suggests many issues could be resolved but then recommends refusal.

Reason no.1 Risk of Flooding

- The application site is zoned for residential development and the applicants consulting engineers have determined that there is no perceptible risk of flooding.
- If the Planning Authority have concerns they should have de-zoned the lands in the last development plan review.
- The reservations appear to be based on a 1990 photograph which shows flooding or land saturation on parts of the site. The site has not flooded since the OPW works in the 1990's. A flood in 2009 was due to a blockage in the culvert under the road. This was a maintenance issue only.
- FFL's were reduced during the assessment to ensure the proposed development would not dominate the existing dwellings on the front of the site and to the south.
- A Flood Risk Assessment Refusal Response is submitted with the appeal.

Reason for Refusal no. 2 Layout

- The town centre leading to suburban layout was favourably received at pre-planning stage.
- The density approved under Planning Authority reg. ref. P07/2386 was stated by the Planning Authority to be too low given the town centre nature of the site. The applicant concurs.
- In town-centre developments it is not unusual for dwellings to open directly onto a public footpath and for residents to park on the street. Urban layouts do not necessarily provide defensible spaces in front of houses. This is more common in suburban layouts.

- The original layout was more terraced housing, leading to a more suburban part of the site. The Planning Authority's comments at FI stage were that the layout should be suburban with houses overlooking a central green. This contradicts the earlier advice of the Planning Authority.
- The applicant revised the layout to reduce the number of dwellings to 83 no., reducing the terraces, whilst maintaining the town centre layout and density of 30 no. units per ha.
- Access to the watercourse has always been from the eastern side. The request for a buffer zone is not necessary. However, access and a mammal-friendly fence could have been achieved by way of condition.
- The tower feature could have been removed by way of condition. Or conditioned to provide low-maintenance finishes. It is submitted however that the benefits of the elements outweigh any perceived disadvantages.
- The car parking space opposite house no. 6 and 22 could have been removed by way of condition and replaced with landscaping. The requirement for 187 no. spaces is met by the provision of 188 no. spaces. The site layout could have been modified by condition to provide two additional spaces at house no. 70. The applicant will accept whatever conditions the Board deem necessary.
- Turning bays could have been requested by way of condition. It is submitted however that providing large bays for such infrequent use is not required. The applicant will however accept any Board condition.
- The revised Transport and Mobility Statement was based on comparable locations. There is nothing inherently different about Sixmilebridge that would create a different result.
- The lands at Owengarney Court are owned by the Local Authority. No further permission is required if they wish to provide a pedestrian link between the two sites.

Flood Risk Assessment Refusal

- It is not clear if the Planning Authority's Consulting Engineer assessed the stage two assessment prepared following the request for clarification of FI.
- The Consulting Engineer JBA prepared a detailed assessment of Sixmilebridge for Clare County Council in which they concluded that notwithstanding previous OPW works c.1995, that there was sufficient reason to allow residential zoning on the site.
- There is a legitimate expectation that complying with the development plan will result in a grant on zoned lands.
- It is submitted that the Planning Authority have failed to take account of the information presented regarding the works carried out by the OPW between 1990-1995. It is noted that the residential development to the south of the site lies at a lower topographical level (5.71mOD). The proposed development has FFL of 5.8m. the dwelling to the front of the site is at 5.89m and has no record of flooding.
- The Planning Authority's planning report relies heavily on the report carried out by JBA. It is submitted that the JBA report does not set out the process by which they arrive at their conclusion. It is submitted that JBA are not a Planning Authority and have acted beyond their authority.
- The Flood Risk Assessment undertaken by the applicant's agent is in accordance with the DoEHLG Guidelines on Flood Risk. Based on the initial assessment undertaken for the previous application, it was determined that the area had no risk or history of flooding.
- The Clare County Development Plan SFRA subjected Sixmilebridge to a detailed examination as part of the Shannon CFRAM study. The document states that the CFRAM will provide sufficient information to make an informed decision with regard to managing flood risk. Volume 10c, page 19 of the SFRA states regarding Sixmilebridge "Several areas at risk of pluvial flooding within the site. Some risk of tidal and fluvial flooding to the settlement, some flood defences in place." The CFRAMs states that there is limited risk to the town but takes into account a length of defence which provides protection to the left bank. The benefit of the defence was not taken into account at site assessment stage but was taken into account in defining the Flood Zones.

- The applicant submits that the flood assessment portion of their Planning Application Services Report was a Stage 1 Assessment, in accordance with the requirements of Appendix A of the Guidelines. It was concluded that the site was not in a flood zone. The applicants proposed surface water management will not exacerbate the flooding risk to the site or surrounding area.
- A second assessment was carried out in response to the request for FI and CoFI. This involved a Stage 2 FRA. An analysis of the flood risk, stream C2 and the site catchment was undertaken as part of the FRA. This identified the village of Sixmilebridge as a Community at Risk (CAR) due to fluvial flooding, however no risk at the subject site was identified. It is submitted that the dominate fluvial flooding is due to the Owengarney River to the west of the site.
- In 1995 the Owengarney River and the tributary stream that runs through the site (stream C2) flooded. This was likely due to a blockage in the culvert. No further flooding has been recorded.
- It is concluded that historical flooding in the area was due to an infrastructural deficit rather than the hydrological regime in the area. It is submitted that this is outside the scope of a site-specific FRA to analyse the efficiency of the OPWs upkeep of their resources.
- The proposed SuDs system will ensure that the run-off from the site will equate to greenfield run-off. The site has adequate attenuation storage. Therefore the proposed development will have no impact on the existing hydrological functioning of the area.
- A site visit confirmed the need to maintain the channel adjoining the site by vegetation removal and the management of flow blockages. This is the responsibility of the OPW. The proposed design allows an access route to the stream and a buffer zone along the stream to facilitate maintenance works by the OPW.
- A catchment study undertaken by the applicant examined the land contributing drainage to stream C2, the streams capacity and the capacity of culverts in the area. It was found that there is adequate capacity currently, for the proposed development and adjusting for climate change. The study used a maximum water

level 600mm lower than the lowest FFL in the stream, providing adequate freeboard. The study found that the subject site is not in a flooded area and therefore any fill of the site would not displace floodwaters. There is no need to provide compensation storage.

- A stage 3 Detailed Risk Assessment is only required where stages 1 and 2 indicate that the development of area may be subject to significant flood risk. The subject site and proposed development does fall within this criteria.
- It is concluded that the site does not have a risk of flooding the site access road is a benefitting area and therefore has a level of protection. The proposed development would not impact the hydrological regime of the area or increase the risk of flooding of the surrounding area.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority engaged the services of a Consulting Engineering firm to examine the flood risk reports submitted by the applicant. The Planning Authority consider that the proposed development would not be in accordance with the Ministerial Guidelines on flooding.

6.3. Observations

- 6.3.1. None on file

7.0 Assessment

- 7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Flooding
- Layout and Design
- Appropriate Assessment

7.2. Principle of the Proposed Development

- 7.2.1. The subject site is zoned for residential development and is located within the village boundary of Sixmilebridge. I am satisfied that subject to other planning considerations the principle of a multiple residential development on the site is acceptable.

7.3. Flooding

- 7.3.1. The subject site lies between two waterbodies. To the west of the site, lies the Owengarney River (also referred to as the Ratty River) and forming the eastern boundary of the site is a tributary of the same river. Access to the tributary was not possible on the date of my site visit, due to thick growth along the eastern boundary.
- 7.3.2. Following the submission of the application, the OPW notified the Planning Authority that its records showed that the area flooded in January 1995 and November 2009. Their email to the Planning Authority stated that a hatched area outlined on a map submitted with their email, follows the route of “channel C2 of the Sixmilebridge Flood Relief Scheme”. The hatched area “indicates the OPW’s requirement for machinery access alongside the channel to carry out maintenance”. They required that the area not be landscaped, paved or otherwise developed in a manner that would prevent access. The OPW recommended that the applicant carry out a full FRA.
- 7.3.3. In response to the Planning Authority’s request for further information, the applicant submitted a Flood Risk Assessment, carried out by BDB Consulting. The report notes that the site is not in Flood Zone A or B. The assessment (section 1.1) states that there is no risk of flooding to the site and therefore a Stage 1 assessment is sufficient. The FRA provides some detail on the works undertaken by the OPW relating to flooding in the village. The stream to the east of the site was to provide a flood relief measure for the Owengarney River, through excavation and clearing of vegetation and construction of embankments for a length of 150m. The FRA states that once these works were undertaken, there is no record of further flooding of this small stream. The report notes that the proposed FFL’s are at least 0.64m above the 0.1% AEP peak flow level. A residual risk exists from blockage of a surface water channel or drainage system but this can be mitigated against by regular maintenance.

- 7.3.4. When assessing this response, the Planning Authority stated that the applicant did not respond to the OPW's request for a buffer but also that the Planning Authority retained some concerns regarding the residual risk for adjacent lands in the event of flooding on the site. A detailed list of further information on flood risk was requested by way of clarification of further information.
- 7.3.5. In their CoFI response, the applicant stated that their FRA was in accordance with the Guidelines. They reiterated that there is no flood risk to the site, since the 1990 works were carried out. They noted that the highest water level for the 1:1000 year flood event is 5.65mOD and the lowest proposed FFL on the site is 5.8mOD. They noted that the proposed scheme allows the OPW access to the stream to continue their maintenance programme.
- 7.3.6. Following this, the Planning Authority engaged an engineering firm (JBA Consulting) to assess the CoFI submission of the Applicant. It is not clear why the Planning Authority took this approach. In their overview of the FRA, the JBA report states that the FRA does not include details of the impact of the 1995 flood on the site or make reference to the aerial photography which shows inundation in the south-western corner and arising from the drainage channel at the eastern boundary. The FRA does not reference the OPW works undertaken in 1996/1997. The FRA uses the CFRAM study to assess risks to the site. The CFRAM study did not include modelling or assessment of Channel 2, so the applicants FRA carried out channel capacity checks for the drain and the two culverts that cross the site.
- 7.3.7. The report notes that while the OPW commented on the applicants first FRA, it did not respond to the Applicants flood risk response to FI. The report notes that the OPW "...have provided some comments on the scheme and CFRAM outputs in Sixmilebridge". It is not clear to whom the comments were made, as they are not provided on the file. I note an email from the OPW to the Planning Department dated May 17 (three days after the JBA report) and note that this email does not refer to the details referred to in the JBA report. For verification purposes, it is regrettable that the full submission of the OPW, when it was made and to whom was not made available to the Board. The comments ascribed to the OPW are summarised by the author of the JBA report and refer to technical details of the arterial drainage works that access to the "this section of the scheme" is difficult for machinery, that the outlet to the Channel C2 is not sluiced, that the crossing below the Limerick Road

presents considerable blockage risk, that the culvert is not under the maintenance of the OPW, that Channel C2 was not modelled in the CFRAM study and it would be incorrect to assume that the levels on the Owengarney can be applied to the C2 and final that the CFRAM appears to underestimate flows in the channel, the downstream tide level and the flood levels in the channel. In reviewing the Applicants FRA, JBA state that it incorrectly used the CFRAM as its base and that a stage 3 FRA is recommended. The conclusion of the report makes a series of recommendations as to what the Stage 3 FRA should provide. However, the recommendation of the report is that permission should be refused on the grounds that flood risk has not been adequately assessed.

- 7.3.8. As noted above, the OPW responded to the Planning Authority after the date of the JBA report. Their email refers only to access to the channel and that works to the watercourse should be included in any FRA.
- 7.3.9. The planning report written after the submission of the above, states that given the comments made by both submissions and using the precautionary principle, permission should be refused on this basis.
- 7.3.10. In their appeal, noting that the Planning Authority's refusal relies heavily on the JBA report, the first party query whether the external consulting firm JBA had access to the Stage 2 FRA carried out by the applicant. They state that the proposed development has been subject to a Stage 1 assessment (in the planning services report) and a Stage 2 FRA as response to the request for FI. The applicant states that they have complied with the requirements of the Flood Risk Guidelines and given that the Planning Authority chose to retain the residential zoning of the land, that they had a legitimate expectation of a grant of permission. The position of the Appellant is that they have demonstrated that the site is not at risk of flooding, therefore there is no requirement to proceed to a stage 3 assessment.
- 7.3.11. On this matter I am minded to partially agree with the reasoning of the appellant. They responded to the request of the Planning Authority at each stage, demonstrating that the site was not at risk of flooding. It must be noted that the site is outside Flood Zone A and B (see Figure 10.3.5 of Volume 10c SFRA of the County Development Plan, which was carried out by the firm JBA, currently commenting on the subject application). CDP18.6 of the development plan states that it is an

objective of Clare County Council to ensure that proposals for development in areas where there is a risk of flooding, (based on the Flood Risk Maps contained in Volume 2 of the Clare County Development Plan 2017-2023, or any updated version), shall have regard to 'The Planning System and Flood Risk Management (and Technical Appendices) – Guidelines for Planning Authorities 2009' and any future OPW flood assessment information. The application, being outside of an identified flood risk area (Map I8) was not required to comply with the Guidelines when first lodged. When a concern was raised by the applicant and the OPW, a stage 2 FRA was submitted. The Planning Authority clearly do not accept the findings of the FRA and given that they were minded to refuse permission for layout reasons, chose not to pursue the option of requesting a Stage 3 assessment.

7.3.12. The position before the Board now, therefore is whether a stage 3 assessment should be requested or whether the other planning considerations are such that permission would likely be refused anyway. Section 5.10 of the Flood Risk Guidelines are clear that a site-specific FRA should not be requested where refusal is probable. From the Boards point of view, it is considered that some issues certainly require clarification and without the opportunity to address these, flood risk should not form a substantive reason for refusal.

7.3.13. With regard to the OPW's requirement for access to the eastern watercourse, this is not an obstacle to development of the site. The proposed development leaves a wide buffer zone, free from paved surfaces or any objects that would impede access to the stream. The exact details of protection measures along the embankment can be addressed between the parties.

7.4. Layout and Design

7.4.1. The Planning Authority's second reason for refusal refers to layout and design, referring specifically to the poor connectivity between the dwellings and public open spaces and the dominance of car parking.

7.4.2. In terms of density, on the site of 2.77ha the proposed development of 83no. houses results in a density of 30. The original application to the Planning Authority, with 90 no. houses achieved a density of 32.5, but this was reduced following the submission of further information. The site is approx. 1.1km walking distance to the Sixmilebridge railway station. The train line passing through the station at 40-minute

intervals serves Limerick-Ennis and Limerick-Galway routes. On a site within the village, within walking distance of a public transport route, one would accept a density of no-less than 30 units per hectare. I note the restriction on site caused by the adjoining waterbody, however, this requires the site to be more used more innovatively rather than less intensely.

- 7.4.3. I agree with the Planning Authority's finding that the layout is dominated by car parking. The applicants have chosen an urban format whereby houses faces directly on to the footpaths, with car parking on-street rather in the more traditional front garden. This is acceptable, given the need to reach an appropriate density on this village site. The quantum of car parking can be reduced however. It is proposed to provide 188 no. spaces, which equates to 2.2 spaces per dwelling. Given that seven of the proposed dwellings are two-bedroom and given the proximity of the subject site to the village centre and the train station, this seems excessive. As a starting point, the 8 no. visitor car spaces eating into the eastern open space could be omitted and reabsorbed into the open space. Likewise the 15no. spaces around the central tower severely curtail the usability of this recreational area and could be omitted. The tower feature is a pleasant and unusual feature that may well add interest to the centre of the site. I do not agree that it will become a magnet for anti-social behaviour, anymore than any central feature would. The creation of attractive places and features that encourage congregation in a manner that is actively and passively supervised is to be welcomed.
- 7.4.4. Connectivity between and within adjoining residential areas is a key principle in the creation of sustainable neighbourhoods. However, a balance must be met between achieving connections to other residential sites and providing a sense of place within the proposed estate. The provision of too many connection points will facilitate the proposed site becoming a through-way or corridor rather than an area with its own character and identity. The creation of a neighbourhood that is well connected and permeable for pedestrians and cyclists is of paramount importance. The proposed pedestrian access points to the adjoining residential estate to the south and the potential development site to the north will ensure that the site retains its own sense of identity, whilst still providing a safe short cut to the centre of the village.
- 7.4.5. The issue of vehicular connectivity is not as well addressed in the proposed scheme. The development proposes a cul-de-sac one way in, one way out layout. This results

in an uninspiring layout that is dominated by roads with houses peppered on the sides rather than forming the central design feature. Stretches of long straight internal roads provide opportunity for speed and back-up of traffic at the single entry / exit point. There is no step-down from the Limerick Road to the site, in width or treatment, to dictate that speeds should reduce, that a shared surface exists and that pedestrian priority begins. An opportunity exists in the north-western corner (proposed as a rectangular block of open space) or from within Owengarney Court to provide a secondary vehicular access point.

- 7.4.6. Policy CDP4.7 of the development plan seeks to ensure a balanced mix of house design, mix and tenure in all new developments. This mirrors national guidelines, in particular the Sustainable Residential Development in Urban Areas- Guidelines for Planning Authorities and the associated Urban Design Manual which recognises that a successful neighbourhood will be one that houses a wide range of people from differing social and income groups and recognises that a neighbourhood with a good mix of unit types will feature both flats and houses of varying sizes. Likewise, the National Planning Framework recognises that the current average of 2.75 persons per household is likely to fall to 2.5. Given the dominance of semi-detached three and four bed housing in the wider Sixmilebridge village, the need to react to future housing needs is all the more pressing. The subject development appears to propose a housing need that appears already well served in the immediate area.
- 7.4.7. I note that the mix of housing types and sizes is a 'new issue' in that it was not raised as a concern by the Planning Authority or the Appellant and has not been addressed by any party. It is considered however, that the layout of the proposed development is fundamentally tied to the nature of dwelling types proposed. It is considered that the proposed development is unsatisfactory. The proposed layout results in development that is road-dominated, has insufficient diversity in housing mix, tenure and design and would fail to create a sense of place.
- 7.4.8. I draw the Boards attention to the site layout and proposed development as originally submitted to the Planning Authority. Drawing no. 84/56-02-01 refers. The proposed scheme of 90 no. houses, certainly displayed an excess of car parking, however at a density of almost 33 units per hectare and providing a greater variety of housing types and sizes, it is arguably a better fit for the subject site. I note and I share the concerns of the Planning Authority regarding compliance with DMURS and the

removal of mature trees, however I do not agree that the provision of open space is problematic. The original layout does not propose an optimum road layout and proposes too many car parking spaces, however it does respond to many of the concerns raised in the preceding paragraphs. The Board may wish to explore this proposal further.

7.5. Summary

- 7.5.1. As noted above, the Board may wish to address the unresolved flood risk through a request for a stage 3 assessment. Given the fundamental issues raised above regarding design and layout of the modified scheme, it is considered that a site-specific FRA would not be warranted at this stage. The subject site, zoned for residential development within the village boundary and within walking distance of a public transport route is an appropriate location for medium to high density development. However, the subject proposal before the Board fails short on two substantive issues that cannot be overcome by modification through condition.

7.6. Appropriate Assessment

- 7.6.1. The subject site is 2.5km south of the Ratty River Cave SAC (002316). The Ratty River Cave SAC is a natural fossil limestone cave set into the east-facing bank of Ratty River (also known as Owengarney River). The site is an important winter roost and a breeding site of the Lesser Horseshoe Bat. The qualifying interests for the site are Caves and Lesser Horseshoe Bat (*Rhinolophus hipposideros*). A stretch of river and the bankside vegetation are included in the site as these are used by commuting bats. A derelict cottage which is situated nearby is also included as it contains a maternity roost of Lesser Horseshoe Bats. A total of 65 bats were recorded here in July 1998. The foraging areas used by these bats have yet to be established. Neither roost is subject to disturbance and there are no other known threats to this site at present.
- 7.6.2. The conservation objective for the qualifying interests is to “restore the favourable conservation condition of Lesser Horseshoe Bat in Ratty River Cave SAC”. To ensure the attribute of no decline in the extent of potential foraging habitat, a target of “no significant decline within 2.5km of qualifying roosts” is set. The NPWS further note that the species follows commuting routes from its roost to its foraging grounds. Lesser horseshoe bats will not cross open ground. Consequently, linear features

such as hedgerows, treelines and stone walls provide vital connectivity for this species within 2.5km around each roost. Therefore the target of “no significant loss within 2.5km of qualifying roosts” applies. Map 2 of the Conservation Objective Series shows the roost locations, the foraging range and the potential foraging grounds for the Lesser Horseshow Bat. The map is diagrammatic only, not based on an identifiable or measurable format such as OSI mapping. It is not possible therefore to determine if the subject site falls within the foraging range or indeed provides one of the potential foraging grounds.

7.6.3. While the site is 2.5km from one of the roosts identified, it is also within a built-up environment and there is no direct linear route of features from either of the roost sites to the site. I am satisfied that the proposed development, will not cause a significant decline in the potential foraging habitat, nor cause a significant loss of linear features.

7.6.4. I am satisfied that the likelihood of a significant effect on the conservation objectives for the lesser Horseshoe Bat, which is a qualifying interest for the Ratty River SAC can be screened out and that there is no requirement for a Stage 2 Appropriate Assessment. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, as the AA screening report submitted with the planning application concludes, it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend permission be REFUSED for the following reasons:

- 1 The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009, seek to ensure that a wide variety of adaptable housing types, sizes and tenures are provided. Criterion number 4 of the Urban Design Manual recognises that a successful neighbourhood will be one that houses a wide range of people from differing social and income groups and recognises that a neighbourhood with a good mix of unit types will

feature both apartments and houses of varying sizes. The National Planning Framework recognises the increasing demand to cater for one and two-person households and that a wide range of different housing needs will be required in the future. The proposed development, which is characterised predominantly by three and four bed, detached and semi-detached housing and provides for a very limited number of one and two bedrooomed units, would fail to comply with national and planning authority policy, as outlined above, and would be contrary to these Ministerial Guidelines, and would, therefore, be contrary to the proper planning and sustainable development of the area.

- 2 The “Urban Design Manual – a Best Practice Guide” issued by the Department of the Environment, Heritage and Local Government in 2009, to accompany the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas includes key criteria such as context, connections, inclusivity, variety and distinctiveness. It is considered that the proposed development results in a poor design concept that is substandard in its form and layout; fails to establish a sense of place; would result in a substandard form of development lacking in variety and distinctiveness, all of which would lead to conditions injurious to the residential amenities of future occupants. Furthermore, the layout of the proposed scheme, being dominated by roads, is contrary to the provisions of the Design Manual for Urban Roads and Streets, issued by the Department of the Environment, Community and Local Government and the Department of Transport, Tourism and Sport in 2013. It is considered that the proposed development would, therefore, seriously injure the residential amenities of future occupants, would endanger public safety by reason of traffic hazard, and would be contrary to the proper planning and sustainable development of the area.

Gillian Kane
Senior Planning Inspector

16 October 2019