



An
Bord
Pleanála

Inspector's Report ABP-305811-19

Development	Construction of 52 dwellings with all associated landscaping and site works and connection to existing services, and construction of a creche with all associated works.
Location	Coolbane, Castleconnell, Co. Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	19/518
Applicant(s)	Torca Developments Ltd
Type of Application	Permission
Planning Authority Decision	Grant, subject to 33 conditions
Type of Appeal	Third Party -v- Decision
Appellant(s)	Eoin Brocert
Observer(s)	None
Date of Site Inspection	12 th March 2020
Inspector	Hugh D. Morrison

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
4.0 Planning History.....	6
5.0 Policy and Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	7
5.3. EIA Screening	7
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Applicant Response	9
6.3. Planning Authority Response	11
6.4. Observations	11
6.5. Further Responses.....	11
7.0 Assessment.....	12
8.0 Recommendation.....	25
9.0 Reasons and Considerations.....	26
10.0 Conditions	Error! Bookmark not defined.

1.0 Site Location and Description

- 1.1. The site is located to the south of Castleconnell town centre. It comprises lands adjoining the existing Castle Rock Housing Estate to the NE, W, and NW, which in total extend over an area of 5.78 hectares. This housing estate is of relatively recent origin and it is centred on Rock Lodge, a historic house which occupies an elevated position. The estate comprises a mix of different house types and sizes and areas of public open space.
- 1.2. Vehicular access to the housing estate is from the south, off Belmont Hill (L5120), a local road which runs between the R445, to the east, and the local road between Castleconnell and Lisnagry/Junction 28 of the M7, to the west. The River Shannon runs to the west of this local road. Pedestrian access to the housing estate is from the north via The Lane, which runs southwards from Castle Street in the town centre.
- 1.3. The lands comprised in the site can be distinguished and described as follows:
 - Site 1 extends over 0.52 hectares and it is accessed from the south, off Castle Rock Avenue. This site rises in a northerly direction and it is bound to the east by the commuter railway line, which serves Castleconnell, and to the north by the southernmost residential property on The Lane. Development previously commenced therein, and the footprints of intended dwelling houses are evident “in the ground”.
 - Site 2 extends over 0.53 hectares and it is capable of being accessed from the south, off Castle Rock Drive. This site is relatively flat and it is bound to the west by scrubland, which, at the time of my site visit, had standing water within it. Development previously commenced therein: A track traverses this site from north to south.
 - Site 3(a) extends over 3.59 hectares and it is capable of being accessed from the SE, off Castle Rock Road. This site rises in an easterly direction and it is bound to the north by a small housing estate known as Coolbane Wood and to the west by fields. Beyond a retaining wall in the west of the site there was, at the time of my site visit, standing water. The aforementioned track continues through this site.

- Site 3(b) extends over 1.14 hectares and it is capable of being accessed from the east, off Castle Rock Road. This site is relatively flat and it is bound to the west by fields. The aforementioned track continues through this site, too.

2.0 Proposed Development

2.1. The proposal would entail the construction of 52 dwelling houses (GFA 6464 sqm) on the site. These dwelling houses would comprise the following house types:

- Type A: 12, two-and-a-half storey, four-bed, terraced units (148 sqm),
- Type B: 20, two storey, three-bed, (4) semi-detached (104.7 sqm) and (16) terraced units (104.7 sqm),
- Type C: 8, two-and-a-half storey, four-bed, semi-detached units (148 sqm),
- Type D: 8 two-storey, three-bed, semi-detached units (104.2 sqm), and
- Type E: 4, two-and-a-half storey, four-bed, semi-detached units (148 sqm).

(Under a Part V agreement, 5 dwelling houses would be transferred to LCCC).

2.2. They would be laid out across the sites as follows:

- Throughout Site 1: 20 terraced, i.e. 8 Type A and 12 Type B,
- On the eastern side of Site 2: 4 semi-detached (Type B) and 8 terraced units (4 Type A and 4 Type B), and
- On the eastern side of Site 3A: 20 semi-detached units, i.e. 8 Type C, 8 Type D, and 4 Type E.

2.3. The remaining Site 3B would be the subject of cut and fill to form a levelled area over the northern portion of this site whereon a creche (GFA 467.7 sqm) would be constructed.

2.4. Site 1 would be connected to The Lane by means of an emergency access route and Site 2 would be linked to Site 3B by means of new pedestrian routes. Likewise, a pedestrian and cycle link would be laid out across Site 3A on a SE/NW axis.

2.5. Under further information, the addition of a turning head within Site 1 led to the omission of 1 Type B dwelling house and so the proposal, as thus revised, is for 51 dwelling houses.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission granted, subject to 33 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was requested with respect to:

- Revisions to the siting of and access for the proposed creche,
- Greater details of the proposed road network, e.g. dimensions and gradients, traffic calming and dished footpaths,
- Car parking spaces, including those for the creche,
- Public lighting scheme,
- Greater details of surface water drainage arrangements,
- Signage and road markings scheme,
- Vehicular access arrangements in the event of a flood emergency, and
- Responses to third party objections.

3.2.2. Other Technical Reports

- Irish Rail: Standard comments.
- Irish Water: Detailed comments.
- Limerick City & County Council:
 - Fire & Emergency Services: Further information requested, on receipt of which no comments made.
 - Environmental Services: Waste management plan condition requested.
 - Archaeology: Archaeological monitoring condition requested.
 - Conservation: Comments on landscape screening.

- Roads: Following receipt of further information, no objection to the proposal, subject to multiple conditions.
- Physical Development: Following receipt of further information, no objection to the proposal on the grounds of flood risk management.

3.2.3. Consultees

DoCHG: Advice on nature conservation, i.e. no loss of water quality in the Lower River Shannon SAC, submission of a bat survey, and the need for site works to avoid bird nesting season.

4.0 Planning History

- 01/2275: Originally 153 dwellings, revised to 87: Permitted.
- 02/0710: Originally 172 dwellings revised to 168: Permitted at appeal PL13.203130.
- 04/0819: Additional 7 dwellings: Permitted.
- 05/2795: Reduction by 6 of total previously permitted dwellings from 255 to 249: Permitted.
- 07/3354: 62 dwellings: Refused on the grounds of prematurity and drainage.
- Subsequent applications were permitted for change of house types and other alterations and 1 additional dwelling.
- PP10036: Pre-application consultation occurred on 21/02/18.
- 18/0533: Same description as current proposal: Withdrawn.

5.0 Policy and Context

5.1. Development Plan

Under the Limerick County Development Plan 2010 – 2016 (CDP (extended)), Castleconnell is identified in the Core Strategy as being on the third tier of the settlement strategy, i.e. a centre on a transport corridor, with a target of an additional 323 dwellings by 2022.

Under the Castleconnell Local Area Plan 2013 – 2019 (LAP), which has been extended to 2023, the site is shown as being in the following zones:

- Sites 1 & 2: Residential Development Area – Phase 1
- Site 3A: Residential Development Area – Phase 1 and Open Space and Recreation
- Site 3B: Education and Community Facilities.

Sites 3A & 3B are also shown as lying within the wider Opportunity Area 4 (c. 5.2 hectares), the majority of which is zoned “Open Space and Recreation”.

5.2. Natural Heritage Designations

Lower River Shannon SAC 002165

5.3. EIA Screening

Under Items 10(b)(i) & (iv) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2019, where more than 500 dwelling units would be constructed and where 10 hectare-urban sites would be developed, the need for a mandatory EIA arises. The proposal is for the development of a 5.78-hectare site to provide 52 new build dwelling units. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall below the relevant thresholds, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Appellant: Eoin Brockett on behalf of Castlerock Road cul-de-sac residents: The following points from their original letter of objection are reiterated:

- The siting of the proposed creche should be at the front, rather than the back of the estate: The effect of this siting would be traffic congestion and disruption for existing residents.

- Site 3A lies in a flood plain and so there can be no justification for building therein. Instead it should be retained as such, as an area of biodiversity for the village. (Earlier planned development was permitted prior to recent floods).
- The adequacy of the EclA is questioned on the following grounds:
 - Species specific surveys have not been undertaken, e.g. bats, pygmy shrews, and otters,
 - The methodology for the bird survey is not disclosed and no mitigation measures are proposed,
 - No survey of insects has been undertaken,
 - Amphibians have not been considered,
 - Certain proposed mitigation measures are too tentative,
 - The NIS falls short of what is needed for an AA, e.g. the absence of an otter survey, where otters are a qualifying interest of the SAC. In this respect, reliance on an example of their adaptability elsewhere is misplaced.
 - No aquatic survey of the watercourse on the site has been undertaken, and yet it could contain Brook Lampreys, a qualifying interest of the SAC. While no in-stream works to this watercourse are proposed, it would be affected by the construction of a headwall and its subsequent use.
 - The mitigation measures to prevent siltation of the SAC are general rather than site-specific.
 - In the light of recent case law, it is not appropriate for a NIS to defer to the competence of a regulator, i.e. the impact of treated sewage from the proposal on the SAC cannot be simply referred to Irish Water/EPA, cf. Preston, R (On the Application Of) -v- Cumbria County Council (2019) EWHC 1362.

6.2. Applicant Response

- The Planning Authority identified the need for a creche, which would be of benefit to existing, as well as future, residents.

Previously the need for a creche was conditioned in the parent permissions for the overall site, i.e. 01/2275 and 02/0710. Accordingly, it was envisaged from the outset and the road network would be able to accommodate any traffic generated thereby. In practise, it is anticipated that the majority of places would be taken by children from Castle Rock Housing Estate itself and so the need for car borne journeys would be limited.

Lands at the front of the Housing Estate would not be suitable as they are prone to flooding.

- The applicant has undertaken a site-specific modelling exercise as an input to its Flood Risk Assessment (FRA). This modelling exercise has enabled finished levels to be established that will avoid flood levels, i.e. the highest recorded flood level is + 22.90m OD, whereas the lowest safe building and road levels would be + 24.54m OD and + 24.26m OD (under the proposal, these levels would be exceeded), respectively, or the exacerbation of flooding elsewhere, i.e. no net change of flood storage capacity would arise.

The applicant recognises that the Castle Rock Housing Estate may not be accessible during a worst-case scenario flood event and so it proposes that an access to this Housing Estate should be provided from higher land to facilitate emergency vehicular access.

- The applicant explains that the multi-disciplinary team that undertook a walkover of the site sought to identify habitats of specific species. However, as the site has been largely disturbed as a result of recent construction activities and as it is neither protected or supportive of protected habitats, none of greater than local importance was identified and so the need for species-specific surveys did not arise.
 - With respect to bats, no roosts were identified as distinct from foraging routes associated with linear vegetation. These routes would be either

retained or replicated and so no net loss of linear vegetation is anticipated.

- The walkover survey did not detect any evidence of either pygmy shrews or otters. The habitat of the former species is widely available, and the water-based habitat of the latter species is not optimally present in the site.
- The walkover survey entailed standard best practice methodologies in its search for bird species. It was concluded that the site is of relatively low ornithological value, due to the nature and size of its habitats.
- With respect to mitigation, site clearance would avoid the bird nesting season and proposed landscaping would enhance retained habitats.
- The marsh fritillary is the only protected insect identified as being present in the wider area of the site. The walkover survey did not record any Devil's-bit scabious and so, as this is the food source of the marsh fritillary, the presence of this insect can be discounted.
- The presence of the common frog is likely: The small stream to the west of the site is a suitable habitat for this species and it would be retained under the proposal.
- The undertaking to retain hedgerows and treeline features "where possible" is meaningful, as, while some such features would be removed, there would be a net increase of 115m in the length of the same.
- The NIS is sufficiently detailed to enable AA to be undertaken: Thus, the aforementioned stream is identified as a potential pathway between the site and the Lower River Shannon SAC and the presence of the same is fully addressed.
- Specifically, with respect to the otter, a qualifying interest of the said SAC, the walkover survey did not detect any evidence of the presence of this species within or adjacent to the site. Thus, the proposal would not, potentially, adversely affect this species in the SAC.
- Specifically, with respect to Brook Lampreys, the construction of a headwall in the aforementioned stream would, potentially have an effect

on water quality and hence the presence of this species in downstream locations. Such construction would be small scale and site-specific mitigation works would be undertaken to protect water quality during the construction period.

- The need to assess treated sewage discharge into the Lower River Shannon SAC is not accepted insofar as the pumping station to and the sewage treatment plant that would be utilised have adequate capacity to handle the said discharge in accordance with EPA standards.

6.3. **Planning Authority Response**

None

6.4. **Observations**

None

6.5. **Further Responses**

The appellant has responded to the applicant's response to his grounds of appeal as follows:

- Attention is drawn to the previously envisaged siting of the proposed creche towards the entrance of the estate. In the absence of a traffic survey, the applicant's contention that the estate road network could accommodate traffic generated by the creche, as now proposed, is premature. Attention is also drawn to existing creches that are thus sited and to the prevalence of creches in the area.
- Attention is drawn to the Planning System and Flood Risk Management Guidelines and to the OPW's Flood Risk Management Plan Shannon Upper and Lower 2018. Under these Guidelines, the site lies within Zones A (Site 3A) and B (Site 2) and so, as the proposed after uses are vulnerable ones, they should not be located on this site. Under this Plan, preparatory work to be undertaken as part of the Castleconnell Flood Relief Scheme, includes a

survey of the existing Castle Rock Housing Estate, thereby demonstrating that it is considered to be at risk of flooding.

- The appellant reviews the applicant's response to his ecological and Appropriate Assessment concerns and finds that they do not address the critiques of the same, which he previously made.

7.0 **Assessment**

7.1. I have reviewed the proposal in the light of national planning guidelines, the CDP and the LAP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use and density,
- (ii) Development standards and amenity,
- (iii) Flood risk and infrastructure,
- (iv) Creche and public open space,
- (v) Traffic, access, and parking,
- (vi) Ecology, and
- (vii) Appropriate Assessment.

(i) Land use and density

7.2. The subject site comprises four distinguishable sites that adjoin the existing Castle Rock Housing Estate. Under the LAP these sites are zoned as follows:

- Site 1: Residential Development Area – Phase 1
- Site 2: Residential Development Area – Phase 1
- Site 3A: Eastern portion: Residential Development Area – Phase 1
Central and western portions: Open Space & Recreation
- Site 3B: Education & Community Facilities

- 7.3. The proposal would entail the siting of new dwelling houses within Sites 1, 2, and the eastern portion of Site 3A and the siting of a creche in Site 3B. It would thus entail land use outcomes that would accord with the relevant above cited zones.
- 7.4. Under the Sustainable Residential Development in Urban Areas Guidelines, advice on net residential densities is set out. On outer suburban/greenfield sites such as the subject site, 35 – 50 dwellings per hectare would generally be sought and “Development at net densities of less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares.” Furthermore, insofar as the subject site would be within 1km of Castleconnell Commuter Railway Station, a general minimum of 50 dwellings per hectare would be appropriate.
- 7.5. While the subject site has an area of 5.78 hectares, portions of it would be laid out for use by the wider community, i.e. the creche on Site 3B and public open space on Site 3A, and so should be discounted from any calculation of net density. Thus, if the areas of Sites 1, 2, and 3A (eastern portion) are aggregated, then a suitable site area for the purpose of calculating net residential density can be established, i.e. with public open space omitted: $0.52 + 0.4584 + 0.816 = 1.7944$ hectares. As the revised proposal is for 51 dwellings, the new residential density would be 28.42 dwellings per hectare. If it is disaggregated across the three sites, then the following net residential densities emerge:
- Site 1 with 20 dwellings – 38.46,
 - Site 2 with 12 dwellings – 26.17, and
 - Site 3A (eastern portion) with 20 dwellings – 24.50.
- 7.6. The LAP zoning map indicates that Site 1 is not the subject of any identified flood risk, whereas Sites 2 and 3A (eastern portion) are. Thus, the higher density proposed for this site is welcome. With respect to the other two sites, I will discuss the said flood risk under the third heading of my assessment. Suffice to say that they are on lands between existing comparable housing, to the east, and lower lying areas, to the west, at greater risk of flooding. Thus, these sites are constrained and restricted to one-sided development of their respective access roads. In these circumstances, I am prepared to accede to their proposed lower densities.

7.7. I conclude that the proposal would be appropriate from a land use perspective and, given site constraints, its density can be acceded to.

(ii) Development standards and amenity

7.8. The proposal, as revised, would entail the construction of 51 dwelling houses, of which 27 would be three-bed units with a floorspace of 104.2 or 104.7 sqm and 24 would be four-bed with a floorspace of 148 sqm. The resulting mix of units would extend the number and reflect the range of dwelling houses comprised in the existing Castle Rock Housing Estate.

7.9. Site 1 would be laid out around a northwards extension to Castle Rock Avenue with a cul-de-sac off this extension to the west. Two terraces of 4 dwelling houses each would be sited on the eastern side of the extension road and a terrace would be sited to the north (6 dwelling houses) and to the south (5 dwelling houses) of the cul-de-sac. Where these terraces would correspond with one another, they would maintain conventional clearance distances and, likewise, with an adjacent bungalow on higher ground, to the north, and existing dwelling houses on lower ground, to the south.

7.10. Site 2 would be laid out on the eastern side of an extension to Castle Rock Drive. It would be topped and tailed by a pair of semi-detached dwelling houses and in between 2 terraces of 4 dwelling houses each would be sited. Conventional clearance distances would be maintained with dwelling houses on higher ground, further to the east.

7.11. Site 3A would be laid out on the eastern side of an extension to Castle Rock Road. It would comprise 10 pairs of semi-detached dwelling houses that would be laid out in a mild crescent form. The easterly rear gardens would be bound at their extremities by an existing retaining wall to the higher housing plots to the east. Conventional clearance distances would be maintained between the proposed and existing dwelling houses and these rear gardens would be terraced progressively in an easterly direction to ease the impact upon them of the said retaining wall.

7.12. The proposed dwelling houses would be attractively designed to meet all relevant internal and external space standards.

7.13. The proposal would afford a satisfactory standard of amenity to future residents and they would be compatible with the existing residential amenities of the area.

(iii) Flood risk and infrastructure

7.14. The applicant has submitted a Flood Risk Assessment (FRA) of the site. This FRA reviews the PFRA, which informs the LAP, and the more recent depiction of flood risk under the OPW's CFRAM. It also reviews information on flooding arising from flood events that occurred in 2009 and 2014, and 2015/16. The FRA brings forward a site-specific FRA of the site, based on a new modelling exercise of the site, which is set out in Appendix B. Appendix C presents the extent of predicted flood risk that pertains to the existing site employing The Planning System and Flood Risk Management (PSFRM) Guidelines categories of Flood Zones A, B, and C. An accompanying summary on page 24 of Appendix B, quantifies these extents as follows:

- Site 1 is in Flood Zone C.
- Site 2: Roads – 34% in Flood Zone C, 47% in Flood Zone B, and 20% in Flood Zone A, and
Buildings – 96% in Flood Zone C and 4% in Flood Zone B.
- Site 3A: Roads – 16% in Flood Zone C, 33% in Flood Zone B, and 52% in Flood Zone A, and
Buildings – 70% in Flood Zone C, 29% in Flood Zone B, and 1% in Flood Zone A.
- Site 3B: Roads – 96% Flood Zone C and 4% Flood Zone A, and
Buildings – 100% Flood Zone C.

7.15. Under Table 3.1 of the PSFRM Guidelines, dwelling houses and schools, which I consider to be analogous to creches, are classified as being highly vulnerable development and so, under Table 3.2, where such development would occur on sites which are within Flood Zones A or B, the Box 5.1 Justification Test applies. Clearly, above cited Sites 2, 3A, and 3B need to be the subject of this Test and so the applicant has run it under the FRA. In this respect, the flood risks in question are pluvial and fluvial.

- In relation to the former, the applicant comments that it would be managed by a suitable on-site surface water drainage system and that the management of

such water “will be a critical factor in the mitigation of flood risk at the site” (cf. page 51 of the FRA).

- In relation to the latter, the Stradbally East Stream, which is depicted as Land Drain A in Figure 2.2 of the FRA and which adjoins the western boundary of the subject site, acts as a backwater to the River Shannon during flood events.

I will review the applicant’s presentation of the Justification Test below.

- 7.16. Item 1 of the Justification Test refers to the zoning of the site. As discussed under the first heading of my assessment, the proposal would comply with the zoning of the subject site in the LAP, which was adopted since the PSFRM Guidelines came into force.
- 7.17. Item 2 refers to an appropriate FRA, which demonstrates compliance with four factors.
- 7.18. The first factor is that the proposal “will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk.”
- 7.19. On page 48 of the FRA, the applicant acknowledges that Sites 2 and 3A have previously been “raised substantially”. *Prima facie* such raising occurred on foot of previous permissions for the development of the subject site. Clearly, it has had an affect upon flood water storage capacity. Under the current proposal, additional site raising would be required to ensure that road and building levels are sufficiently above predicted 1% AEP and 1% - 0.1% AEP levels to be safe. The volumes involved are quantified in Table 4-2 of Appendix B. Notwithstanding such raising, the modelling of the site indicates that there would be no impact upon the predicted extent of flooding or flood levels in the wider area.
- 7.20. On page 55 of the FRA, the applicant undertakes to optimise the layout of the proposal at the detailed design stage to ensure that there is a negligible overall impact on the existing flood storage capacity of the site. Such optimisation would be achieved by re-grading landscaped areas.
- 7.21. I note the chronology of the subject site insofar as previous works have reduced flood storage capacity and proposed works would reduce further this capacity. I note, too, that while the applicant acknowledges this chronology, it has not at this stage

undertaken the detailed design work that would be required to mitigate such further reduction.

- 7.22. I anticipate that the landscaped areas that the applicant has in view are the lands comprised in the central and western portions of Site 3A, which have been designated as POS. Unlike proposed POS elsewhere in the subject site, no detailed landscaping proposals have been brought forward for these lands. Given that it is this POS that is presented as being of amenity value to the wider village, I am concerned that its future design remains outstanding. As such design would appear to be bound up with the regrading needed to ensure that flood storage capacity within the subject site is maintained, I consider that, to ensure these objectives are demonstrably compatible with one another, it needs to be undertaken in advance of any permission for the proposal.
- 7.23. To conclude on this first factor, I consider that the reassurance offered by the modelling exercise needs to be undergirded by a scheme that demonstrates that there would be no loss of flood water storage capacity on the site, thereby negating the possibility of any heightening of flood risk elsewhere.
- 7.24. The second factor is that the proposal includes measures to minimise flood risk.
- 7.25. As stated above, the proposal would be designed to ensure that the levels of roads and buildings are constructed to heights that maintain a safety margin above the predicted flood water levels under 1% AEP and 0.1% AEP flood events, i.e. 23.44m MOD and 24.26m MOD, respectively. The minimum levels for roads would be 24.33m MOD and for buildings 24.75m MOD (cf. Table 4-1 of Appendix B).
- 7.26. The surface water drainage system for the proposal would incorporate SuDS methodologies and it would be designed to discharge to the Stradbally East Stream at greenfield run-off rates through the incorporation of attenuation tanks and hydro-brakes within it.
- 7.27. I note that, whereas Sites 2, 3A, and 3B would be served by effectively a new surface water drainage system, Site 1 would rely upon that part of the existing surface water drainage system, which discharges into a tributary of the Stradbally East Stream (cf. Land Drain A on Figure 2.2 of the FRA). Insofar as this existing system would not appear to be attenuated, such reliance would add to such flows and so an opportunity to minimise flood risk has been missed by keeping the existing

and proposed systems separate (cf. e.g. drawing no. 19-030-002 B, which depicts the retention of an existing outfall to this Stream alongside a proposed new one).

- 7.28. I note, too, that, whereas the new surface water drainage system for Sites 2, 3A, and 3B would link to an existing storm sewer, the linkage point would be just before the outfall to the Stradbally East Stream and so, again, any attenuation would appear to relate only to the proposed rather than the existing drainage systems.
- 7.29. I conclude that, whereas the proposal would incorporate flood risk minimisation measures, more could be done in this respect in relation to the existing surface water drainage system, which serves Castle Rock Housing Estate, and more should be done insofar as Site 1 would be reliant upon this system.
- 7.30. The third factor refers to measures to ensure that residual risks can be managed to an acceptable level.
- 7.31. The applicant discusses the full range of residual risks from climate change and the possible failure of the Parteen Weir upstream of the site on the River Shannon to the failure to maintain the Stradbally Stream East and the threat that a 1% AEP flood event might pose to the L5120 remaining open. Whereas the former macro risks lie largely outside the applicant's control, the latter micro risks would be addressed by means of the maintenance of the vicinity of the Stream accessible to the applicant and the provision of an emergency escape road from Site 1 to The Lane to the north. This road would follow the line of a former driveway to Rock Lodge, which is presently in use as a public footpath, to the south of The Lane. During my site visit, I observed that attractive mature trees line this footpath and so it would be important to ensure that the provision of the proposed road would be compatible with the retention of as many of these trees as possible. The applicant has not submitted a plan that shows the exact siting and canopy spreads of these trees in relation to the said road and so it has not demonstrated that the twin objectives of a suitable escape road and tree retention would be achievable.
- 7.32. I conclude that, whereas in principle the applicant is seeking to manage residual risks, it has not demonstrated that this could be consistently achieved in a manner that would respect other objectives, too.
- 7.33. The fourth factor relates to good urban design.

- 7.34. In the light of my discussion of the proposal under the first, second, fourth, and fifth headings of my assessment, I consider that it would represent good urban design. The flood risk mitigation measures proposed by the applicant would not undermine such urban design, subject to confirmation of the compatibility of the proposed escape road with tree retention discussed under the third factor.
- 7.35. The proposal would be served by the public water mains and the public sewerage system. To this end the four sub-sites would connect to the existing public infrastructure in Castle Rock Housing Estate. Irish Water has not objected in principle to such connection.
- 7.36. I conclude that the proposal, as submitted, falls short of providing sufficient information to enable it to pass the Justification Test. In these circumstances, I consider that it would be premature to grant planning permission to it.

(iv) Creche and public open space

- 7.37. The parent permissions for the Castle Rock Housing Estate envisaged that a creche would be provided and, indeed, condition no. 4 attached to PL13.203130 required that a separate application be made for the same. An overall site plan submitted as part of this application/appeal indicated a site for a creche at a more southerly point on the spine road, i.e. Castle Rock Road, than that which is now proposed. However, this point was not at the entrance to the Housing Estate from Belmont Hill (L5120), as suggested by the appellant.
- 7.38. Under the Childcare Facilities Guidelines, where a housing scheme exceeds 75 units, it may be appropriate to provide a creche. The Castle Rock Housing Estate has c. 140 units at present and, under the current proposal, a further 51 would be added. As these units are almost exclusively family sized dwellings, there is *prima facie* a need for a creche, which the applicant now proposes to meet.
- 7.39. The applicant states that there is a shortfall in childcare places within Castleconnell, while the appellant contends that there is not. I recognise that, under the proposal, 51 additional family-sized dwelling houses would be provided and so, unless there is a considerable over supply of places at present, there would be a need for the proposed creche. The proposed site layout plan for Site 3B states that this creche would provide 40 spaces and so it would make a significant contribution in this respect.

- 7.40. The proposed building would be sited on a raised portion of Site 3B (cf. “Cut and Fill” drawing no. 19-030) and it would be of elongated form with an extensive southerly aspect that would allow the main playrooms to be well-lit. This building would be served by public footpaths from the south and the east and it would be accompanied by lands to the south, which could be laid out as external play areas.
- 7.41. The aforementioned overall site plan also indicated that the central and western portions of what is now denoted as Site 3A would be laid out as “open space amenity/recreational area” with a “possible future pedestrian link to the Shannon” running through it from SE/NW. Under the current proposal, the provision of public open space (POS) in these portions of the site is shown, along with the said pedestrian/ cycle link and some tree planting. This POS would also be linked via the above cited public footpath network to further POS proposed for the northern portion of Site 2. In total 1.09 hectares of POS would be provided, in addition to 0.776 hectares that already serves the Castle Rock Housing Estate.
- 7.42. I note that whereas the applicant has submitted detailed proposals for the POS that would serve Site 2 and the eastern portion of Site 3A, the central and western portions have not been the subject of a similar level of detailed proposals. I recognise that these portions of Site 3A are the subject of an identified flood risk, which I discussed above under the fourth heading of my assessment. Clearly, any detailed proposals for these portions would need to be compatible with their role as a flood plain for the River Shannon. Likewise, how the opening up of them to the public would be reconciled with the need to ensure their safe use by that same public needs to be fully addressed. Thus, detailed proposals should be prepared in conjunction with a public safety management plan.
- 7.43. I conclude that the proposed creche and additional POS for the site would be welcome provisions for, in the first instance, the expanded Castle Rock Housing Estate. I also conclude that the opening up of the central and western portions of Site 3A to the public needs to be thought through from both amenity and safety perspectives.

(v) Traffic, access, and parking

- 7.44. The proposal would generate an increase in traffic movements generated by the overall Castle Rock Housing Estate. Due to the locational spread of Sites 1, 2, 3A

and 3B, this increase would initially be distributed throughout the Estate, although it would, ultimately, converge on the spine road and the its access from/egress to Belmont Hill (L5120).

- 7.45. The on-site road network was designed to accommodate the increase in traffic that would now arise and the extensions to it, which would serve the revised proposal, would be capable of being laid out so as to comply with the Design Manual for Urban Roads and Streets (DMURS). Likewise, the aforementioned junction with the L5120 would be capable of accommodating this increase satisfactorily.
- 7.46. The appellant expresses concern over the additional traffic that would be generated, specifically, by the proposed creche. The applicant predicts that a considerable proportion of the take-up of places within the proposed creche would be likely to come from residents of the surrounding Housing Estate and so the opportunity to walk, rather than drive, to this facility may be availed of. As discussed above, under the fourth heading of my assessment, from the outset the Castle Rock Housing Estate was envisaged as having a creche located centrally within it and the current proposal simply brings forward this outstanding matter. I do not, therefore, consider that any objection, in principle, to the same would now be justified.
- 7.47. During my site visit, I observed that the spine road is the subject of minimal traffic calming measures. Given the increase in traffic that would arise and given, too, the location of the proposed crèche at a point further into the site than that originally envisaged, I consider that a Road Safety Audit (RSA) of the spine road should be undertaken to establish if further traffic calming measures are needed and, if so, what they should entail. Any such measures should be implemented in conjunction with the current proposal.
- 7.48. Each of the proposed dwelling houses would be served by two off-street car parking spaces. Additionally, 4 visitor spaces would be provided adjacent to the POS in Site 2 and 2 x 4 spaces would be provided adjacent to the POS in Site 3A (eastern portion). The proposed creche would be served by a 12-space car park, i.e. 4 spaces for staff and 8 for parents/guardians dropping off/collecting children. This car park would be accompanied by a turning circle.
- 7.49. I conclude that traffic generated by the proposal would be capable of being handled satisfactorily on the existing/extended on-site and local road networks, subject to the

findings of a RSA of the spine road, Castle Rock Road, to establish whether additional traffic calming measures along it would be needed. I conclude, too, that the proposed level of car parking provision would be appropriate.

(vi) Ecology

- 7.50. The applicant has submitted an Ecological Impact Assessment (EclA) of the proposal. This Assessment draws upon desk-based studies and a walkover survey of the site undertaken on 2nd May 2018. It identifies the habitats comprised in the site and fauna of potential and actual interest. With respect to fauna, the EclA identifies the likelihood that the site is used by bats for commuting/foraging, the possibility that this site is used by foxes and pygmy shrews, and the possibility, too, that the presence of the Strabally Stream East, occasionally, attracts otters, although no signs of this species were present during the time of the walkover survey.
- 7.51. The EclA proceeds to consider the construction and operational phases of the proposal. In relation to the former, the potential risk to the quality of surface water in the said Stream is discussed in connection with the construction of headwalls at outfall points from the proposed surface water drainage system and the handling of hydrocarbons. Mitigatory measures are identified in these respects. In relation to the latter, while the proposal would entail the expansion of the existing Castle Rock Housing Estate and hence an increase in human activity, it would also entail a net increase in the length of hedgerows/tree lines.
- 7.52. The appellant has critiqued the EclA. Generally, he has questioned the adequacy of the survey work undertaken and, specifically, he has identified gaps in this work and the absence of species-specific survey work.
- 7.53. The applicant has responded by stating that, based on the walkover survey undertaken, gaps can reasonably be commented upon and the need for more detailed survey work does not arise.
- 7.54. During my site visit, I noted the accuracy of the applicant's habitat classification and the absence of fauna. I, also, note the commentary of the DoCHG to the effect that water quality should be protected, a bat survey should be undertaken, and vegetation clearance should occur outside the bird nesting season.
- 7.55. I, therefore, conclude that the proposal would be capable of being undertaken without any significant effects upon ecology.

(vii) Appropriate Assessment

7.56. The site does not lie within a Natura 2000 site. However, the Lower River Shannon SAC (002165) flows to the north and west of the site at a remove of 1.5 km and upwards. The Stradbally Stream East flows along the western boundary of this site into the River Shannon at Chapel Hill Road car park.

7.57. Under the revised proposal, the Castle Rock Housing Estate would be further developed to provide 51 dwelling houses and a creche. This proposal would entail works to construct headwalls to two outfall points into the Stradbally Stream East from the proposed surface water drainage system. Accordingly, there is a risk that these works would result in the pollution of the waters in this Stream, which would provide a pathway to the SAC. A significant effect would thus arise insofar as the quality of water in the River Shannon could deteriorate with potentially adverse implications for SAC Conservation Objectives to restore/maintain the conservation condition of the following qualifying interests:

- Sea Lamprey [1095]
- Brook Lamprey [1096]
- River Lamprey [1099]
- Salmon [1106]
- Otter [1355]

Thus, there is a pollution source, a pathway route, and a SAC receptor in play and so I concur with the applicant's decision to progress from a Stage 1 Screening Exercise to a Stage 2 Appropriate Assessment and hence its submission of a Natura Impact Statement (NIS). I will undertake an Appropriate Assessment of the proposal in the light of this NIS, the NPWS's Conservation Objectives and Site Synopsis for the Lower River Shannon SAC (002165), and my own site visit. I consider that the relevant scientific information available to me is sufficient to enable me to proceed thus.

7.58. The site is not in the Lower River Shannon SAC and so its development, as proposed, would not have a direct impact upon this SAC. During the construction and operational phases of the proposal, potential indirect impacts would arise, and it is these that I will discuss below.

(a) During the construction phase:

7.59. The construction of two headwalls to outfall points from the proposed surface water drainage system would risk a deterioration of water quality in the Stradbally East Stream, which flows into the nearby River Shannon. The applicant proposes to mitigate this risk by means of the following measures:

- The Stream would be temporarily blocked upstream and downstream from the sites of the proposed works by the use of sandbags and silt fencing.
- The blocked-off portion of this Stream would be de-watered in advance of construction work. Water thereby removed would discharge to a silt bag placed away from the Stream and surrounded by silt fencing so that any suspended solids can be removed and water can percolate to the ground.
- Excess upstream water would be diverted by being pumped around the blocked-off portions of the Stream.
- Earthworks would be undertaken during periods of low rainfall.
- Daily monitoring would be undertaken.

7.60. Other risks to the said water quality, such as from the handling of hydrocarbons, would be mitigated by standard construction practices.

7.61. I consider that these measures would mitigate the risk posed to water quality in the Stradbally Stream East and hence the nearby River Shannon. The Conservation Objectives for the above cited qualifying interests would thereby be safeguarded.

7.62. Notwithstanding the absence of evidence of the presence of otters in the applicant's EclA, it has, on a precautionary basis, addressed the potential disturbance to this qualifying interest of the SAC that could arise during the temporary construction phase. In this respect, the fact that the otter is normally active during twilight hours when construction work would not be on-going is noted, as is the considerable body of literature that reports on its ability as a species to habituate to human activity. Accordingly, the Conservation Objective for this qualifying interest would not be adversely affected.

(b) During the operational phase

- 7.63. The proposal would be connected to the public foul water sewerage system, which incorporates a WWTP that discharges treated waters to the River Shannon. This WWTP is subject to EPA regulations. Irish Water has raised no in principle objection to the proposed connection and so no capacity or conformity issues at the WWTP have been reported.
- 7.64. Surface water from the proposal would discharge to the Stradbally Stream East. Sites 2, 3A, and 3B would be served by a new surface water drainage system, which would incorporate attenuation tanks accompanied by hydrocarbon interceptors and hydro-brakes. Thus, the resulting discharge would be controlled in terms of flow and water quality. Site 1 would be served by the existing surface water drainage system at Castle Rock Housing Estate. Its connection to this system would result in a marginal increase in flows into the said Stream and any pollution risk that they might represent.
- 7.65. In the light of the above discussion of potential indirect impacts upon the Lower River Shannon SAC of the proposal, during its construction and operational phases, and their corresponding mitigating measures, I consider that any residual impacts would adversely affect the integrity of this SAC.
- 7.66. I have also considered the possibility that cumulative impacts may arise. The applicant's NIS advises that other extant permissions for the area surrounding the site are for minor development and so I consider that cumulative impact would not be an issue.
- 7.67. I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Europaen Site No. 002165, or any other European site, in view of the Site's Conservation Objectives.

8.0 Recommendation

- 8.1. That permission be refused.

9.0 Reasons and Considerations

Having regard to the Box 5.1 Justification Test set out in The Planning System and Flood Management Guidelines, the applicant has failed to demonstrate that the proposal would comply with this Test. Specifically,

- In relation to Item 2(a), the omission of detailed plans for the majority of the lands in Site 3A means that the adequacy of the regrading of these lands, as part of their landscaping for public open space, to provide compensatory flood water storage space cannot be verified. Likewise, the compatibility of such regrading with the future use of these lands as public open space, which is capable of being used in a manner consistent with public safety, cannot be verified.
- In relation to Item 2(b), as Site 1 would be reliant upon the existing surface water drainage system, which is unattenuated, the additional flows generated thereby would exacerbate the flooding of the Stradbally Stream East.
- In relation to Items 2(c) and (d), the omission of detailed plans of the proposed emergency escape road means that the compatibility of this road with the retention of attractive mature deciduous trees along its route, and hence their amenity value to the Castle Rock Housing Estate, cannot be verified.

Consequently, as submitted, the proposal fails to meet the requirements of the relevant Justification Test in the said Guidelines and so to accede to it would be premature and it would run the risk of increased flooding in the area, with attendant public safety hazards, and developmental outcomes that would be seriously injurious to amenity. The proposal would, thus, be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

23rd April 2020