



An  
Bord  
Pleanála

## Inspector's Report ABP 306088-19.

### Development

Ninety-nine Residential Units, creche and outdoor area, parking, vehicular pedestrian and cyclist entrance off new junction on Circular Road, (R474), connections to services, attenuation pond and treatment prior to outfall, pumping station and storage prior to discharge to sewer at Cahercalla Road and associated site works.

(Natura Impact Statement.)

### Location

Ballymacaula Keelty, Drumbiggle, Circular Road, Ennis, Co Clare.

### Planning Authority

Clare County Council

### P. A. Reg. Ref.

P 18-811

### Applicant

Abadair Investments Ltd.

### Decision

Grant Permission.

### Type of Appeal

Third Party

### Appellants

John Madden

### Observer

Ennis Golf Club.

### Date of Inspection

5<sup>th</sup> March 2020.

### Inspector

Jane Dennehy

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## 1.0 Site Location and Description

- 1.1. The site has a stated area of circa 6.53 hectares and is located to the north west side of Ennis. To the north are Ennis Golf Club and agricultural lands, to the east are agricultural lands, to the west is the N85 and to the south are agricultural lands and the Beechpark Roundabout a five-arm roundabout. Residential development comprising road frontage dwellings on relatively large plots are located along Circular Road (R474) to the east of the site to the south of Beechpark roundabout. A residential development, comprising forty-two units, the construction of which is advanced is located on adjoining lands at the southern end of the site. It is to have access onto the southern end of the Circular Road. (P. A. Reg. Ref. 237/17 – PL 300590 refers.) The Claureen River the flow of which is in a north east direction and, Ennis Golf Club to the north and north east and agricultural lands to the south.
- 1.2. The site is elevated above the road level of the N85. Ground levels range from 10.0m to 31.00 m OD Malin and fall generally in a north and north easterly direction with the highest level being at the south western end. The lands within the site are primarily in agricultural use with uneven surface and scrub and gorse. Low lying lands in use for attenuation and flood relief associated with the N85 constructed circa fifteen years ago are on the opposite west side of the N85.

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority, is a proposal for for Phase 1 of a two-phase residential development. The second phase proposal for eighty-two units is to be subject of a separate future application. A masterplan drawing is provided with the application which includes indicative details of the layout for Phase 2 with the area outside the red line boundary of the current application.
- 2.2. The current (Phase 1) proposal is for a residential development comprising:
  - Ninety-nine dwellings, (19 detached and 80 semi-detached houses,) surface parking (two house per unit and fourteen visitor spaces),
  - Crèche in a two-storey building (438 square metres), outdoor play area, staff parking and drop off zone at the northern end of the site,

- Vehicular, pedestrian and cyclist entrance via a new junction of Circular Road (R474) and associated access works.
- A pedestrian and cycle link to the adjoining lands to the south with two links to the adjoining development being planned,
- Traffic calming on Circular Road,
- New Connections to public water supply,
- Surface water drainage services which includes an attenuation pond and treatment of surface water prior to disposal via an outfall to a watercourse.
- Foul drainage network to include a foul water pumping station (at the northern end of the site) with emergency storage and rising main and discharge to the sewer at Cahercalla road, associated site development and landscaping works.

2.3. The application is accompanied by a planning statement, design statement, letter of consent from Ms Mary Quinn (landowner) confirmation of Part V Agreement, Environmental Noise Assessment Report Landscaping plans and Tree Survey report, Construction Phasing Site Plan, Bat Survey report, Environmental Impact Assessment Screening Report and a Natura Impact Statement Screening Report.

2.4. A multiple item request for additional information was issued on 7<sup>th</sup> December 2018 in respect of issues relating to European sites and their conservation objectives, habitat mapping and information relating to protected species and additional information supplementing the submitted bat survey, legal interest, sightlines and entrance design arrangements, drainage details and connection agreements and surface water calculations, storage and management, measures for protection of residential amenities of and boundaries with adjoining properties, level variations in private and communal open spaces, protective measures – ball strike risk from adjoining golf course) environmental noise assessment and the creche.

2.5. The further information submission lodged on 11<sup>th</sup> September 2019 is accompanied by A Natura Impact Statement, Land registry details and folio maps, Part V agreement and acceptance letter, Golf Course Safety statement, Badger Survey Report, Environmental Noise assessment report (revised), Bat survey (Revised) Natura Impact Statement (revised).

### 3.0 Planning Authority Decision

#### Decision

- 3.1.1. By order dated, 13<sup>th</sup> November, 2019 the planning authority decided to grant permission for the proposed development subject to thirty-one conditions which are generally of a standard planning and technical nature.
- 3.1.2. Special development contributions towards the cost improvement work to the footpaths to Cahercalla to from Circular Road under Condition No 5, improvements to public lighting under Condition No 6 and traffic calming on Circular Road under Condition No 7 necessary to facilitate the development are required. Under Condition No 9 A Stage 2 RSA, signage and minor modifications to internal roads design and layout at the entrance in accordance with recommendations in DMURS (Section 1.5) is required. Under Condition No 11 a compliance submission is required comprising a detailed Construction and Environmental Management Plan providing for multiple item requirements including a Construction Traffic Management Plan providing for construction traffic routing from the N85 and R474 along with signage and a Construction Waste Management Plan. Condition No 13 is an archaeological monitoring condition.

### 3.2. Planning Authority Reports

#### Planning Reports

- 3.2.1. The assessments in the **planning officer's** initial report dated, 12<sup>th</sup> December, 2018 which indicated concerns over several aspects of the proposed development, taking into account the recommendations and prescribed bodies and internal technical reports, and a request for additional information was recommended.
- 3.2.2. In the final **planning officer** report dated, 13<sup>th</sup> November, 2019, satisfaction with further information submission lodged with the planning authority on 11<sup>th</sup> September, 2019 subject to outstanding matters being addressed through compliance with conditions is indicated.

#### Other Technical Reports

- 3.2.3. The initial report of the **Roads Design Office** dated, 29<sup>th</sup> November, 2018 indicated recommendations for conditions and for additional information request in respect of

multiple issues. The supplementary report dated 18<sup>th</sup> October, 2019 on the further information submission indicated satisfaction subject to outstanding details being resolved by compliance with conditions. The recommended requirements include preparation and submission of a stage 2 road safety audit for agreement, and conditions relating to minor technical details and for special development contributions.

- 3.2.4. The initial report of the **Environmental Assessment Officer** dated, 22<sup>nd</sup> October, 2019 indicated satisfaction with the details within the submitted Natura Impact Statement report recommendations for additional information, confirmation that an Environmental Impact Statement is not required, environmental impact assessment not being mandatory, having regard to Schedule 7 of the Planning and Development Regulations. Also recommended, if permission is granted, is a requirement for retention of some hedgerows and removal of others between the months of November and March, prioritisation of new planting to facilitate habitat formation and phasing for removal and reinstatement of trees and hedgerows.
- 3.2.5. The report of the **District Engineer** dated, 5<sup>th</sup> December, 2018, with reference to issues of concern raised by Transportation Infrastructure Ireland, (See para 3.3.3 below ) includes: confirmation that no infrastructure in the margin of the N85 will be used for the proposed development, in that discharge of attenuated surface water from the proposed development is to be direct to the Claureen River discharge is to be at greenfield rates and in accordance with SUDS and that the development will be located above the highest flood levels in the area. It is also confirmed that attenuation for the N85 are to the south west and to the north west of Claureen Bridge, with the larger area beside the river being a flood compensation area (45,000 square metres) which has the capacity that was displaced by the N85.
- 3.2.6. The supplementary report of the **District Engineer** dated, 7<sup>th</sup> November, 2019 indicates recommendations for attachment of conditions which include requirements for compliance submissions providing for: a minimum free board of 500 mm on the attenuation ponds from the 1.100 year level to inner sides of embankments; specification, monitoring, design and maintenance requirements; biodiversity security measures for equipment adjacent to the Claureen river to prevent invasive species transfer and, certification of the storm water network by a suitably qualified engineer.

3.2.7. The report of the **Water Safety Officer** dated 17<sup>th</sup> September, 2019 includes recommendations for construction stage safety measures to be implemented, by compliance with a condition.

### 3.3. **Prescribed Bodies**

3.3.1. The initial report of the **Department of Culture, Heritage and the Gaeltacht** dated, 20th November, 2018 includes a recommendation for an archaeological monitoring condition to be attached if permission is granted. Although there are no recorded monuments within the site or within 135 metres, given the spatial extent of the development there could be potential for undiscovered remains to be encountered according to the planning officer who refers to discussions with the Council's Conservation Officer /Archaeologist in his report.

3.3.2. The initial report of the **Department of Culture, Heritage and the Gaeltacht** dated, 20th November, 2018 also notes development as one phase of a larger two-phase development and the proximity to two European Sites (The Newhall and Edenvale Complex SAC and Pouladatic Cave SAC). It is stated that it cannot be concluded that the potential for significant effect on the lesser horseshoe bat, a qualifying interest cannot be excluded and that the relevant details in the NIS submitted with the application are insufficient in this regard.

3.3.3. Reference is made to the necessity to ensure thorough details for and assessment of measures for offsetting habitat loss, ensuring habitat connectivity, and landscape management for protection and enhancement of hedgerows in consideration of the conservation objective for the lesser horseshoe bat. Concerns are also indicated in respect of lack of habitat mapping, Annex 1 species possibly being present; the badger and otter species and potential operational impact on the Lower Shannon SAC due to potential effects on water quality in view of conservation objectives. More detailed information on otter survey details, on badgers, details of the measures for protection, and, habitat protection and compensation are recommended.

3.3.4. The supplementary report of the **Department of Culture, Heritage and the Gaeltacht** dated, 24<sup>th</sup> September, 2019 refers to examination of the second NIS and bat survey submitted in the further information submission. The statement in the NIS

submissions that no compensatory habitat is required because the site in which the foraging habit is sub optimal is not mapped as a potential foraging habitat on the NPWS habitats map for conservation objectives whereas a landscaping and the installation of a night bat roost in the site are proposed in the application. It is noted that the N85 restricts movement of mammals in both directions to either side of it. It is recommended that the planning authority should be satisfied that there is no net loss of hedgerow and tree lines and that the landscaping provides for long term replacement for habitat loss.

- 3.3.5. It is indicated that there is satisfaction that it is demonstrated that the proposed development would not result in fragmentation or loss of bat habitat and that it would have adequate connectivity. It is recommended that relevant plan led mitigation measures in the CDP be applied in full.
- 3.3.6. The ruling out of effects of the Lower River Shannon SAC and its qualifying interests, which include the otter within the NIS, is also noted along with the proposed provision for a construction and environmental management plan (CEMP) which incorporates bio security measures.
- 3.3.7. The report of **Transportation Infrastructure Ireland** (TII) dated, 19th November, 2018 indicates variance with National policy on control of development affecting national routes, itself or by precedent for further adverse impact on the operation and safety of the national road network. It is stated that it is not demonstrated in the application that detrimental impact on capacity safety and operational efficiency of the national road network in the vicinity which needs to be safeguarded.
- 3.3.8. It is also stated in the TII submission that it should be shown that adverse surface drainage issues, will not occur. Reference is made to legal matters relating to the development on adjoining lands. (P. A. Reg. Ref 17-237 refers.) It is recommended that the Planning Authority should be satisfied that the drainage regime of the N85 is safeguarded in the current proposal and that TII. TII does not accept responsibility for any mitigation, repair of improvements attributable to private developments.
- 3.3.9. The supplementary report of **Transportation Infrastructure Ireland** dated; 16<sup>th</sup> October, 2019 indicates confirmation that the position of the authority indicated in the initial report regarding impact on the road network is unchanged.



- 3.3.10. The report of **Inland Fisheries Ireland** dated, 13<sup>th</sup> November, 2019 which is comprehensive and detailed indicates no objection to the proposed development. It notes the Claureen river to be a major salmon spawning river and the need for water quality and quantity to be unaffected. It is recommended that it be established the flow of water through the oil interceptor be future proofed against climate change. Flow through 'U' inverted pipes from the first lagoon is recommended. With the second lagoon having further attenuation for pollutants and rate of discharge. Recommended conditions include a bond condition for assurance about infrastructure completion should the applicant company should cease trading and a condition for screening or a setback to mitigate noise levels on the N85.
- 3.3.11. The report of **Irish Water** dated, 14<sup>th</sup> October, 2019 on the further information submission indicates requirements for the proposed development to be subject to the subject to a statement of design acceptance, a valid connection agreement and services agreements prior to commencement of development and consistency with Irish Water's Standard Code of Practice.

#### 3.4. **Third Party Observations**

- 3.4.1. Submissions were received from five parties in which issues of concern and recommendations raised include:
- Deficiencies in sightlines at the proposed entrance. Traffic safety and convenience along Circular Road and adjoining network.
  - Mammal proof fencing should be provided if permission is granted for protection of fauna using existing tracks at site to existing attenuation area and habitat on west side along N85.
  - A communal pumping station should be provided for developments west and east of N85.
  - Deficient information on proposed surface and foul drainage arrangements.
  - Safety at the adjoining golf course design and layout and safety at the proposed adjoining development.

## 4.0 Planning History

- 4.1. The current application is for Phase One of a two Phase development, an application for the latter to be lodged at a future date. Prior to lodgement of the current application, the applicant withdrew an application for the combined site area comprising 148 dwellings, a new junction and access off Circular Road (R474) creche, parking, pedestrian and cycle linkages, water supply and foul including a pumping station and connection to the foul sewer in Cahercalla Road and surface water and drainage, including attenuation and treatment prior to outfall and landscaping and site works. (P. A. Reg. Ref. 17/495 refers.)
- 4.2. TC 0007: The applicant lodged a pre – application consultation request with An Bord Pleanála in respect of the lands in which the application site is located. An Opinion was issued in which it was indicated that the documents did not constitute a reasonable basis for an application for Strategic Housing Development to An Bord Pleanála. As no application followed the details of the records are not available.
- 4.3. Previously, the overall site lands straddled the administrative boundaries of Ennis Town Council and Clare County Council. and concurrent applications were lodged details of which follow:
- 4.4. P. A. Reg, Ref. 06/2182/PL 221409: The planning authority decision, (Clare County Council) to grant permission for 147 dwellings, was overturned following third party appeals based on: (1) Premature development due to deficiencies in sewerage facilities, (2) serious injury to visual amenity due to a noise barrier, 2.5 m high to be erected on the boundary with the Western Relief Road and, (3) inadequate pedestrian connectivity between the site and the urban area.
- 4.5. P. A. Reg, Ref. 06/144/PL 221408: The planning authority decision, (Ennis Town Council) to grant permission for fifty houses and twenty eight apartments was overturned following third party appeals on the basis of (1) Premature development due to deficiencies in sewerage facilities, (2) inadequate pedestrian connectivity between the site and the urban area.
- 4.6. P. A. Reg. Ref. 04/2599 PL214836: The planning authority decision, (Clare County Council) to grant permission for 159 dwellings and a creche with living accommodation overhead was overturned following appeal based on reasoning that

it would be prejudicial to public health because it was not demonstrated in the proposals for surface water collection, attenuation and disposal the development could be satisfactorily drained.

- 4.7. There were some prior applications to Ennis Town Council or Clare County Council in respect of which a decision was not determined or were withdrawn by the applicant. (P. A. Reg. Refs 99/222 (PL 121236), 99/2373 and 04/2520 refer.)
- 4.8. P. A. Reg. Ref. 237/17 – PL 300590: Further to appeal permission was granted for a forty-two dwelling unit development on the adjoining lands to the south under construction at the time of inspection.

## 5.0 Policy Context

### 5.1. National Policy: Project Ireland 2040 - National Planning Framework

- 5.1.1. The National Planning Framework, Chapter, Six: 'People Homes and Communities'. It includes policy for prioritising the provision of new homes at locations in settlements that can support sustainable development at an appropriate scale, increased building heights and increased densities and integration and prioritisation of walking and cycling.

### 5.2. Regional Policy

- 5.2.1. The Regional Spatial and Economic Strategy for the southern Region was brought into effect in January, 2020.
- 5.2.2. The key component of the strategy is to strengthen the settlement structure of the region and capitalise of individual and collective strengths of the cities, metropolitan areas and the strong network of towns villages and rural communities. The Strategic Outcomes and Investment priorities provide for Compact Growth involving careful management of compact and sustainable growth to achieve better residential development.
- 5.2.3. County Clare is within the 'Mid-West' Strategic Planning Area. Ennis is a "Key Town" which is the second tier of the settlement hierarchy. Ennis is defined as having a large population scale urban centre function as a self-sustaining regional

driver. The triangle of Limerick Shannon and Ennis is recognised as the economic engine of the Mid West with the M18 creating greater synergy and connection between Ennis and Galway. The Ennis 2040 Economic and Spatial Strategy, a long-term economic strategy with an agreed focus on the economic and spatial future. to be prepared offers opportunities for long term strategy for sustainable development of the town

### 5.3. Development Plan

- 5.3.1. The operative development plan is the Clare County Development Plan, 2017-2023. According to Volume 3 A (Ennis Municipal District):
- 5.3.2. The district, inclusive of surrounding villages and clusters has a projected population of 33,497 by 2023, the current population being circa 25,150.
- 5.3.3. According to Settlement Strategy, the Settlement Plan Objective for Ennis it is the policy objective to ensure that Ennis, designed as a Hub town in the National Spatial Strategy (now superseded) as the county town at the top of the settlement hierarchy (a) is a driver of economic and regional prosperity by harnessing its strategic location strong urban structure, retail service and accommodation base as well as its competitive advantages, (b) a vibrant culturally rich town with a revitalised town centre strong economic growth balanced with enhanced social inclusion sustainable neighbourhoods and a high level of environmental quality ensuring an excellent quality of life is achieved and, (c) A local area plan for Ennis and its environs during the lifetime of the CDP.
- 5.3.4. Section 1.4.1 (Strategic Aims for Housing and Sustainable Neighbourhoods) The strategic aims Goal 1, (of ten goals to be carried through into the LAP) provides for Housing and Sustainable Neighbourhoods facilitating sustainable and balanced population increases by way of land use zoning, provision for consolidation and range of social and physical infrastructure, encouragement of population growth and community development, and creation of strong vibrant neighbourhoods in the Ennis area with a high quality and mix of housing for all members of the community while achieving sustainable neighbourhoods and improving place making.
- 5.3.5. Proposals for new residential development must be in accordance with section 28 guidelines and be accompanied by a design statement. (Section 2.2)

- 5.3.6. Development Management Guidelines are set out in Appendix 1
- 5.3.7. The site is within lands identified as 'Site LDR66 Circular Road'. The specific objectives for the site lands include: provision for high quality dwelling units with green areas and amenities; incorporation of a buffer of sufficient width between the proposed development and the N85 to protect residential amenity; .a flood risk assessment to ensure floor levels are set to an appropriate height to accommodate 1-in 100 year flood event (plus climate change allowance /freeboard); A drainage impact assessment and, an ecological assessment
- 5.3.8. The majority of the site lands are subject to the zoning objective: R1: New/proposed residential; "Use of lands to accommodate a low-density pattern of residential development, primarily detached family dwellings. The underlying priority shall be to ensure the character of the settlement/area is maintained.
- 5.3.9. An area in the southern end is subject to the zoning objective: "existing residential": to conserve and enhance the quality of the character of the area, protect residential amenity and allowing for small scale infill.
- 5.3.10. An area in the northern end is designated Open Space – to be retained free of development and allocated to parkland space and passive recreational use.
- 5.3.11. There is a requirement for provision of a buffer of sufficient width between the development and the N85 along the western boundary as "buffer space" which is to remain undeveloped and to provide for conservation of biodiversity areas , green space and or natural features including designated sites and archaeological features.
- 5.3.12. A flood risk assessment to accompany applications for development to demonstrate floor levels at a height that an appropriate height for a 1:100 flood event and, a climate change factor. The location is within Flood Zone C (Flood Risk Zones and Flooding Map) and a drainage impact assessment.
- 5.3.13. Development proposals are required to include an ecological assessment and to be informed by Bat surveys. There is to be no loss of habitat for the Lesser horseshoe bat. Habitat loss is to be offset by additional landscape planting ensuring connectivity. A landscape management plan is required for protection and enhancement of hedgerow and wildlife features.

5.3.14. Noise mitigation measures, if required should have regard to the Clare Noise Action Plan 2012

#### 5.4. **Strategic Guidance.**

5.4.1. Relevant statutory guidance issued under Section 28 of the Planning and Development Act, 2000 as amended are:

‘Guidelines for Planning Authorities: Sustainable Residential Development in Urban Areas’ and the accompanying ‘Urban Design Manual’, DOEHLG, 2009.

‘Design Manual for Urban Roads and Streets’ 2012 (DMURS)

‘The Planning System and Flood Risk Management’ (and associated ‘Technical Appendices’)

‘Childcare Facilities – Guidelines for Planning Authorities’ 2001

5.4.2. Relevant statutory guidance issued under Section 28 (1C) of the Planning and Development Act, 2000, as amended further to the National Planning Framework to facilitate delivery of sustainable development (the Act): “*Urban and Building Heights: Guidelines for Planning Authorities*” (2018) (2018 Guidelines) Sections 3.4 – 3.8: “Building Height in Suburban/ Edge Locations (City and Town) refer.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal by Mr. John Madden**

6.1.1. An appeal was received from **Mr. John Madden** of Glencairn House, Hermitage on his own behalf on 10<sup>th</sup> December, 2019. The contents are outlined in brief below:

- There are inconsistencies in the application documents on the site regarding the total number of units (ranging from 148 to 181) and number of units in each phase. There are serious implications due to lack of infrastructure.
- There is a lack of capacity in sewerage infrastructure and there are failings in the Greater Ennis area and Irish Water should not agree to servicing of further new developments as there are serious capacity issues at Cahercalla. There will be major difficulties in laying pipework through limestone and, in use of a pumping station to pump sewerage up to the level of the road. The pumping

station itself will not have sufficient capacity and cannot accommodate emergency requirements leading to overflows and back up issues. The lack of storage capacity is a concern of Inland Fisheries Ireland.

- The proposed disposal of surface water to the Claureen Kimaley river is totally unacceptable due to the hydrology and serious effects downstream in the Fergus river. There is failure to apply hydrological analysis in application and the planning authority's assessments. Backwatering in the Claureen river and flash flooding should be considered having regard to effects on the Fergus river catchment. Due to local circumstances on flooding levels and topography the requirement that post development surface water run-off be at greenfield sites is not an assurance.
- It is unclear as to whether the attenuation storage provision is for Phase 1 or Phase 1 and 2 and, whether the design is appropriate for the location over limestone rock as there are no filtration or percolation opportunities afforded. There is a major concern as to adequacy and oversight of maintenance.
- The attenuation pond on the opposite side of the N85 has fallen into a state of disrepair due to lack of maintenance. The proposed fencing off of the attenuation pond, which should not be constructed in a confined urban area. It poses serious risk of accidents and will attract rodents. It is unclear whether there is a registered wayleave access and third-party consent for the surface water disposal to the Claureen river. Services should be in land under public ownership.
- The applicant's response in the further information submission on provision for the climate change factor in design for attenuation capacity is insufficient in that provision should have been made for a fifty percent increase in capacity. Transportation Infrastructure Ireland has considerable concerns about flooding risk.
- Tailbacks along Circular Road and insufficient vision along the road have serious safety implications.
- The property (Ms Mary Quinn) to the south should be acquired so that visibility can be achieved at the entrance.

- The applicant has failed to obtain consent of Ms Quinn for tree and vegetation removal.
- The proposed development does not accord with the Standards in Design Manual for Urban Roads and Streets, (2012) (DMURS):
- Traffic exiting the site would not have vision until it is south of her property resulting in an inability to take corrective action if necessary. Circular Road / Kilmaley Road (R474) is deficient in width at less than six metres with a footpath excluded. As the land is in third party ownership further obstruction of vision could take place.
- To the north side of the proposed entrance sightlines for pedestrians and cyclists are obstructed and reduced to less than ten metres with vehicles exiting the development being unsighted leading to serious potential for injuries.
- The effective site entrance is less than thirty metres between the dwellings to the north and south sides and falls short of DMURS standards and standards for a route within a 50 km maximum speed.
- The width of the road at less than six metres cannot accommodate a roundabout. Vehicles turning right or left would block vehicles. Dual lane access and egress is necessary to avoid back-ups especially during peak hours. Obstruction and exceedance of speed limits causes accidents.
- The methodology for the noise studies is deficient and flawed with regard to circumstances on dates of measurement, measurement locations. Mitigation such as provision for a tree belt on the western boundary are not included.

## 6.2. Applicant Response

6.2.1. A submission in response to the appeal of Mr John Madden was received from the applicant's agent, on 20<sup>th</sup> January, 2020. the contents of which are outlined below:

- The proposed development is not premature: The masterplan (drawing 102) demonstrates consistency with the CDP. Drawing 101 shows the masterplan approach with layout for the current ninety-nine-unit current (Phase 1)



proposal, the eighty-two-unit (Phase 2) proposal and ancillary open space. Pre-application consultations with An Bord Pleanála took place but it was decided not to lodge an application under the Strategic Housing Regulations. The reasons for refusal of permission for the two prior relevant concurrent applications have been resolved. (P. A. Reg. Ref. 06.2182 /PL 221409 and P. A. Reg. Ref 06/2256/PL221870 refer: - See section 4 above.)

- The application and layout show consistency with the appropriate and relevant zoning objectives and it is high quality. It is requested that it be acknowledged that a high-quality residential environment which maximises amenity potential for the occupants, is sustainable and, increases housing supply is to be delivered.
- With regard to sewerage infrastructure capacity, Permission was granted for the upgrade of the Clonroadmore Wastewater Treatment Plant in 2014 to provide for capacity for pe of 30,150 in 2014.
- The proposed pumping station is designed with capacity including storage capacity to serve a total of 234 dwelling equivalents. This is well above the capacity required for Phases 1 and 2 development of 181 dwellings and three creche equivalents. It will also serve six existing dwellings, and forty-four units on lands including Ms Quinn's lands. Servicing an agglomeration through a single pumping station, ultimately to be operated by Irish Water is a logical solution.
- The main levels are: - highest dwelling at 31.0 m AOD; lowest dwelling at 15.5 m AOD; pumping station - ground level at 16.0 m AOD and, Sump at 12.0 m AOD and, the development's entrance at 27.0 m AOD. The invert level at Cahercalla manhole is 28.62 m with the gravity network operating from 31.0 m to 12.782 m AOD. The pump rising main is to operate from 12.3 to 29m = 16.7 Static Head and the length of the rising main is 750m. AOD
- The emergency storage in the pumping station caters for 234 units for a 24 hours period. For Phase 1 this storage provides for 55 hours (2.3 days). If a pump fails, the other pump continues to operate. A Bauer coupling is available on the rising main and a portable generator will power the pumps in the event

of extended power outages. Contracts for maintenance and servicing will be in place.

- With regard to proposed surface water drainage arrangements, a stormwater gravity network will collect all surface water and discharge to the Claureen River to the north of the site. The complete system is gravitational from the highest point of the site to the outfall. The outfall pipe will be parallel to the N85 in a 13.5-22 m wide margin. A letter of consent from the Local Authority is available. (Appendix A to the submission refers.)
- A natural hydrological regime is to be maintained minimising downstream flooding and adverse impact on water quality. The design accords with SUDS standards and it limits post development run off below the Mean Annual Peak Flow (RURAL) in the pre-development state of the lands. The design is based on the most recent historic Data from Met Eireann on rainfall intensities for storm duration and return periods (5 yrs. 30 yrs. and 100 yrs. and standard average annual rainfall.
- The attenuation ponds will benefit water quantity control and its quality. It has capacity for a 1:100 critical storm event from an area of 4.45 hectares and a freeboard of 0.2 m to path level but this is to be increased to 0.5 m in final construction with a submission being lodged for the planning authority's agreement. The adopted guidance (from the EPA) for climate change is an allowance for an increase of ten percent in rainfall intensities.
- The flow rates and frequencies will be similar to those of natural conditions reducing impact downstream. Settlement and biological update will provide for pollutant removal before discharge. The treatment exceeds normal standards and involves a bypass interceptor, a forebay providing for settlement of most of the suspended solids, application of raking bar screen prior to entry to the outfall and routing through a pipe section into a stilling chamber for further treatment before entry to the river. (Drawing 107-18-151 refers.)
- Detailed discussions took place with Inland Fisheries Ireland with regard to the quality of the Claureen river and it has provided written confirmation of acceptance of the proposed development.

- Groundwater protection has also been provided for, the geology being karst limestone with surface water contaminants being collected in the proposed sealed gravity network. The attenuation ponds will be lined with impermeable EPDM liner. Fifty percent of the site area will remain permeable.
- All the infrastructure will be within the application site lands or within public roads and lands in public ownership with no Wayleaves being required. Written confirmation by the County Council is attached in Appendix A.
- TII has not lodged an appeal and it accepts that roads issues are within the remit Clare County Council and it accepts the review and the decision of Clare County Council.
- With regard to the layout a thirty metres' setback between the N85 and the building line of houses and the twelve metres wide space for "Buffer Space" providing for open space are observed with timber fencing being erected.
- A continuous footway is to be provided between the entrance junction and Cornmarket Street along Circular Road providing for pedestrian connectivity A lighting scheme at the entrance and along the Circular Road is included.
- A roundabout on the thoroughfare is not provided as part of the application. The proposed entrance is midway on a straight section excess of thirty metres on the R474 where it is circa six metres in width and there are existing traffic calming measures and signs including the maximum 50 kph. A traffic table 100 mm high with 1:12 ramps with additional seed ramps on either side will supplement existing measures.
- The sightlines which are at 49 metres from a 2.4 metres setback accord with the standards in Table 4.2, DMURS (Version 1.1) Narrowing of roads and junction radii and other features are encouraged in DMURS.
- The design for the entrance junction was subject to an independent RSA, as noted by the Roads Design Office. No third-party consents are required. Available frontage extends over thirty-four metres. The footpath to the north side is and 2.35 metres wide on the south side and 3.95 m from the edge of the road and trees and vegetation on the inner side the adjoining property boundary will be maintained and will not encroach on sightlines.

- Noise survey methodology and all noise measurements and calculations were recorded for the most sensitive locations. The noise impact on dwellings is compliant with relevant guidance as indicated in the submitted noise report. There is no requirement for thirty metres deep treeline. Ennis National School is not located on the N85 or R474 and is accessed from three routes resulting in insignificant traffic volumes and noise. Two metres high walls on rear boundaries of gardens will also provide noise abatement.
- It is confirmed that there are no unresolved issues between the applicant and Ennis Golf Club.

### 6.3. Planning Authority Response

6.3.1. A submission was received on 14<sup>th</sup> January, 2020 in response to the appeal according to which:

- There were two public consultation phases both of which are addressed in the planning officer report:
- The proposed development is not premature as it is for lands which are zoned for residential development within the designated settlement and served by sewerage and water infrastructure is not premature and is acceptable.
- Surface water, capacity, attenuation facilities and design and, sewerage services feasibility and connection arrangements have been addressed. Final details will be resolved in the Project Works Service Agreement between the applicant and Irish Water.
- Issues relating to noise and sightlines, traffic flow and safety were satisfactorily addressed at application stage in the planning officer reports.
- Having regard to the zoning and nature of the development, statutory guidance and the CDP and the existing development, the proposed development is deemed not to be seriously injurious to the amenities of the area or property in the vicinity, is acceptable on grounds of traffic and pedestrian safety and convenience and in accordance with the proper planning and development of the area. It is requested that the planning authority decision be upheld.

6.3.2. A further submission was received on 13th February, 2020 on behalf of the planning authority. It is stated that it can be confirmed that the issues in relation to boundary treatments and in relation to access to future development on adjacent lands were satisfactorily addressed in the assessment of the application and the conditions attached. It is requested that the planning authority decision be upheld.

#### 6.4. **Observations**

6.4.1. In a submission from Gerry Hannon on behalf of Ennis Golf Club it is stated that the concerns which had been raised by the club have been fully met by the applicant.

#### 6.5. **Further Responses**

##### **Mr John Madden**

6.5.1. A further submission was received from Mr. Madden on 18<sup>th</sup> February, 2020. Mr. Madden contends that a total of four developments will proceed without a strategic planning approach. There will be particular implications for surface water and sewerage infrastructure and for the single entrance point on a narrow road as there will be a combined development of two hundred dwellings and four hundred private cars He reiterates his view that the development proposal is premature and that adjoining lands should have been included. Hydrological analysis (to address implications of surface disposal), an engineering analysis for the sewerage arrangements and the implications for the Cahercalla Manhole and, the insufficient capacity for the additional volume of traffic on the road should first be addressed.

### 7.0 **Assessment**

7.1. The issues central to the determination of a decision are considered below under the following subheadings:

Policy Context.

Density

Dwelling Mix

Layout

Creche

Surface Water Drainage Arrangements  
Foul Water Drainage Arrangements.  
Traffic, and Entrance Arrangements  
Noise Abatement – Buffer at N85.  
Archaeology.  
Part V.  
Environmental Impact Assessment.  
Appropriate Assessment

## 7.2. Policy Context.

- 7.2.1. Further to examination of the policies and zoning objectives for the site lands in the Clare County Development Plan, 2017-2023 it is noted that the majority of the application site and adjoining lands within the area of the masterplan provided with the application, are subject to the zoning objective “*Low Density Residential*”.
- 7.2.2. In principle, new residential development on the subject greenfield lands at the edge of the town is acceptable and to be encouraged in view of the land use zoning, and the strategic policy for Ennis as the County town at the top of the county’s settlement hierarchy and a “key town” which is within the Limerick-Shannon-Ennis triangle, the economic engine of the Mid West as defined in the ‘Mid-West’ Strategic Planning Area within the Regional Spatial and Economic Strategy for the Southern Region providing at regional level for the facilitation of delivery of sustainable development and consolidation of settlements as provided for in the National Planning Framework

## 7.3. Density.

- 7.3.1. It can be confirmed based on review of the application, having regard to the appeal in which clarification is sought, that the number of units subject of the current application for Phase 1 is ninety-nine units. The indicative layout within the masterplan area for Phase II is for eighty-two units which is to be subject of a future application resulting in a total overall of 182 units in a the two-phase development.
- 7.3.2. The proposed development, for Phase 1 comprising, with reference to the application submissions, a stated gross site area of circa 6.5 hectares and a stated net area of circa 5.92 hectares delivers a housing density which approximates to fifteen to sixteen units per hectare. Density for the combined development (Phase

1 and Phase 2) shown on the masterplan area for 182 units, based on a stated gross site area of 9.86 hectares is circa 18.5 units per hectare and, on a stated net site area of 9.59 hectares is circa 19 units per hectare.

- 7.3.3. The zoning objective, according to the CDP, is to provide for use of lands to accommodate low density pattern of residential development, primarily detached family dwellings with a priority for ensuring that the character of the settlement is maintained. There is no dispute that the densities for the ninety-nine units within Phase 1 (and the 182 units for Phase 1 and 2 as indicated in the masterplan) would be within the range of densities intended for lands in the CDP.
- 7.3.4. However, low density development such as that proposed, notwithstanding the consistency with the CDP does not reflect the delivery of sustainable development and consolidation of settlements as provided for in the NPF or the recommendations within relevant statutory guidance namely, *Guidelines for Planning Authorities: Sustainable Residential Development in Urban Areas* and the accompanying *Urban Design Manual*, (DOEHLG, 2009) and *Urban and Building Heights: Guidelines for Planning Authorities* (DOHPLG 2018) The site location, having regard to these guidelines comes within “Suburban/Edge Locations, (City and Town) for which residential densities of 20-35 dwellings per hectare are prescribed. The proposed density, (although in accordance with the CDP) therefore falls significantly below this minimum range. As a result, the proposed development would be contrary to these statutory guidelines and would not facilitate consolidation of settlements and sustainable development as provided for in the NPF.
- 7.3.5. The appellant’s concerns as to the potential for adverse impact on residential amenities, public infrastructure and the capacity of the road network of the development at the density proposed, are considered below

#### 7.4. Dwelling Mix.

- 7.4.1. The proposed development is made up of two-storey detached and semi-detached units, except for one bungalow There is an over representation of three bed and four units and an under representation of two bed units, a total of twelve being provided and there is no provision for one bed units in the scheme. As a result, there is a lack of potential for variation in household formation. Furthermore, the dwelling design, and building typology, two storey form and plot configuration are very homogenous.

7.4.2. Whereas the CDP envisages a residential development of “primarily detached family dwellings” by way of the zoning objective for the lands, the proposed development is at variance with the dwelling mix comprising a mix of townhouses, duplexes and apartments in two to four stories and two to four bed units in a range of building typologies recommended for Suburban/Edge Locations, (City and Town) in the statutory guidelines.

#### 7.5. **Layout**

7.5.1. The proposed development is at variance with the recommendations in: Sustainable Residential Development in Urban Areas’ and the accompanying ‘Urban Design Manual’, DOEHLG, 2009, specifically with regard to. Criteria No. 4, providing for a neighbourhood with a good mix of unit types will feature both flats and houses of varying sizes suitable for households from different social and economic backgrounds.

#### 7.6. **Layout.**

7.6.1. There is predominance within the layout of the scheme in the extent of the continuous internal access road from one end to the other through the centre of scheme (Phase 1 and Phase 2) off which there are numerous cul de sacs, resulting in a relatively monotonous effect. Open space is randomly dispersed through the scheme but there is no principle area of open space with a central focus and high-quality amenity potential that would benefit the amenities of future residents. The layout for Phase One is somewhat sprawled, across the site, enclosing on three sides, a parcel of land, “subject to future application” adjacent to the buffer adjacent to the N85 (required under specific objective LDR66 within the CDP)

7.6.2. The rationale for the phasing as defined in Phases 1 and 2 over the site as indicated on the masterplan appears piecemeal, is not apparent or clearly explained. It gives rise to further concern about the overall layout for Phase 1 in so far as it will function on a stand-alone basis or, in a manner which is integrated and encourages emergence of a compact and positive urban neighbourhood environment. It can be concluded that delivery of the street-based environment with a sense of enclosure, legibility along with, squares and parks and a strong sense of urban neighbourhood, passive surveillance and community.



- 7.6.3. Development on the site and the masterplan area, in view of the size and configuration should be in line with the principles of the Urban Design Manual as opposed to the current low density proposal with its relatively monotonous characteristics of the proposed development of two storey detached and semi-detached houses spread out over cul de sacs off the main spine road lacking in hierarchy, a central focus and sense of place and neighbourhood. The scope for the lands to accept a medium density development with its own neighbourhood identity, character areas with a range of densities, dwellings types and sizes, which encourage a wider range of household formation hierarchies and sense of place having regard to the recommendations of the Urban Design Manual without adverse impact on the amenities and character of the surrounding building environment and the residential amenities of adjoining properties requires consideration.
- 7.6.4. Separately, it is noted that the requirements with regard to the buffer zone between the development and the N85 in terms of supplementary planting, replacement planting and trees and hedgerows, and the maintenance of the area at the woodland area at the northern end of the site, (zoned for open space purposes) in which the attenuation areas are to be located and a bat house to be constructed which are considerable benefit the development and surrounding area.. The proposed erection of fencing and restriction of access to the location satisfactorily addresses the safety concerns which are raised in the appeal.

## **7.7. Creche**

- 7.7.1. The location within the scheme on the west side of the internal access road, the layout, building design and capacity of the proposed creche which is to be provided in the current application but which is to serve the entire two phase development is considered appropriate and generally in accordance with the recommendations in the Childcare Guidelines. However, having regard to the Guidelines for Sustainable development in Urban Areas, creche facilities are more appropriately located within a cluster of neighbourhood centre services and facilities within new development.

## **7.8. Surface Water Drainage Arrangements**

- 7.8.1. The site location is within the topographical catchment of the Claureen river at which the proposed outfall is to be located. It is in an area designated as Flood Zone C in respect of which a justification test is not required is to the Flood Risk Management

Guidelines. However, in accordance with the CDP requirements for the area, a flood risk assessment report was included in the application.

- 7.8.2. Although the hydrogeological conditions are complex, due to the underlying karst limestone in the area the appellant's view that that design for a surface water drainage network that achieves predevelopment green field rates is not an assurance is not supported.
- 7.8.3. The levels within the site are above flood levels, including the highest flood level in the river and the design for the entire surface water drainage network as far as the outfall in the Claureen River, for the proposed development and masterplan area is entirely gravitational. The calculations and design confirmed to be in accordance with (Dublin City's) Sustainable Urban Drainage Standards (SUDS) in the municipal engineer's report of 5<sup>th</sup> December 2018. Surface water collection, attenuation, storage and treatment and discharge to the Claureen river through the proposed new outfall is demonstrated, to be achievable at pre-development greenfield flow rates, and half of the lands, post development will remain permeable.
- 7.8.4. With regard to the appellant's concerns as to provision for a climate change factor, the applicant has confirmed a willingness to provide for a freeboard of 500 mm on attenuation ponds as opposed to the 200 mm initially proposed for the 1.100-year level. Should permission be granted, a condition similar to that attached to the planning authority decision, which the applicant has indicated willingness to accept, can be included providing for requirements for the 500 mm freeboard allowance for climate change - to inner sides of embankments, specification, monitoring, design and maintenance requirements and biodiversity security measures for equipment adjacent to the Claureen river to prevent invasive species.
- 7.8.5. The comprehensive system for collection, and treatment and attenuated discharge provides assurances as to protection of the quality of the receiving waters in the Claureen river. Inland Fisheries Ireland, in the submission dated, 13<sup>th</sup> November 2019 has indicated that subject to conditions, it has no objection to the proposed arrangements. The basis for which the Appellant's claim that the planning authority has not satisfactorily applied hydrological analysis in assessment of the proposal to discharge surface water the Claureen River having regard to potential backwatering and flash flooding on the Fergus River catchment is unclear.

- 7.8.6. The appellant's concerns as to the risk to underlying limestone rock are addressed by installation of the sealed gravity network which collects contaminant and the use of EPDM liners in the attenuation ponds and as such groundwater protection is assured.
- 7.8.7. The attenuation/compensation area to the west which was created further to construction of the N85 and land to the north which are recorded as liable to annual flooding, as discussed in the submitted flood risk assessment report (FRA) are not affected by the proposed development on the application site.
- 7.8.8. Written consent provided in a letter dated 12<sup>th</sup> June, 2017 to the applicant's agent from the Senior Engineer, Clare County Council in respect of a prior proposal for development to an outfall, to the east side of the N85 facilitating run off at pre-development rates to the Claureen River, subject to technical requirements including a Road Opening License to be issued by the local authority is included in the response to the appeal.
- 7.8.9. TII has indicated that it is not in favour of discharge from private developments to the national road drainage infrastructure on grounds of potential for adverse impact on the capacity and efficiency of the national road network's drainage scheme. In this regard reference has been made to similar concerns regarding the previous proposal for lands to the south side of the application site. under P. A. Reg. Ref. 17/237. (The planning authority's decision to grant permission for this development was upheld following appeal. (ABP 300590 refers.)) TII has also recommended that the planning authority should satisfy itself that the drainage regime in the N85 is safeguarded, and that it does not accept responsibility for any mitigation or other works. These issues do not arise in connection with the current proposal as the surface water drainage system's routing to the proposed outfall is independent. The Municipal Engineer in his report of 5<sup>th</sup> December, 2018 has confirmed that the development is independent of the N85 drainage network. Resolution as to any potential outstanding dispute between the parties as to entitlement to and consents to enter into legal agreements regarding connection to infrastructure is outside the legal remit of the Board.
- 7.8.10. Otherwise, the infrastructure will be within the application site lands or within public roads and lands in public ownership with no Wayleaves being required.

7.8.11. From a planning perspective, following consideration of the concerns raised in the appeal, there is no objection to the proposed surface water drainage arrangements

#### **7.9. Foul Drainage Arrangements.**

7.9.1. The proposals for foul drainage arrangements are comprehensive and are designed with capacity for servicing of the entire Phase 1 and 2 of the masterplan areas, (clarification on which was sought in the appeal) the adjacent lands in thirty party ownership and, additional existing development. The pumping station, rising main and gravity network, incorporating emergency storage and, with capacity to serve 234 dwellings as proposed, in all respects, notwithstanding the complicity of pipework layout through limestone will be taken in charge by Irish Water.

7.9.2. It is not agreed with the appellant that the proposed development is premature by reason of deficiency in sewerage facilities serving the area, in that the infrastructure capacity was expanded to 30,150 pe by way of the upgrades of the Clonroadmore WTP which took place several years after the determination on the decisions, (following appeals) to refuse permission for the two the prior to unsuccessful applications under P. A. Reg.Ref.06/2182 and P. A. Reg. Ref. 06/2256.

7.9.3. The applicant's confirmed willingness to enter into a Remedial Works Agreement with Irish Water in remedying faults in historic pipework downstream of the Cahercalla manhole, improving the receiving waters and the town's network along with the proposed servicing of existing development in addition to the proposed development is a significant benefit.

7.9.4. The proposed arrangements for foul water drainage and disposal, the details of which are comprehensive in the applicant's submissions are considered to be satisfactory.

#### **7.10. Traffic, and Entrance Arrangements**

7.10.1. The proposed entrance to the proposed development, which it is to be the sole entrance for Phase 1, (the current proposal) and Phase 2 within the masterplan area is onto the Circular Road, (R474) at the southern end of the site frontage relatively close to the N85 off Beechpark Roundabout to the south and Drumbiggle and Cahercalla Road to the east.

- 7.10.2. The Traffic and Transportation Assessment (TIA) for the proposed Phase 1 development and the indicative Phase 2 development within the masterplan area, comprising 182 dwellings and the creche has been reviewed having regard to the objections of the appellant as to congestion and tailbacks on the Circular Road (R474) and the concerns of TII as to potential for undermining the capacity and operational flow of traffic on the national road network.
- 7.10.3. The entire development is to be serviced by one entrance onto the Circular Road (R474) which is roughly six metres in width and is close to the five-arm roundabout at Beechpark, including access to the halting site.
- 7.10.4. It is considered that the survey data, methodology and projections for opening year, in 2017 and future assessment years, for Phase 1 in 2022 and finally, with the overall development in place in 2037 for the TRICS based generation rates and PICADY and ARCADY are appropriate and reliable in indicating spare capacity at Beechpark roundabout on the N85 route, These predictions are also indicative of possible capacity for traffic generation attributable to a larger development density.
- 7.10.5. With regard to potential or congestion and tailbacks attributable to traffic turning movements at the proposed entrance and additional volumes on the R474 it can be confirmed that the application does not include proposals for construction of a roundabout on the R474 outside the site entrance.
- 7.10.6. The entrance location is onto a section of the R474 where the maximum speed limit of 50 kph applies. Traffic calming measures and the road alignment also limit attainable speed of traffic on the route. Sightlines achieved in both directions at the proposed entrance are consistent with current, recently revised standards of 49 metres from a 2.4 metres setback as provided for in Table 4.2, DMURS (Version 1.1) The recommendations in DMURS are also supportive of narrow carriageway widths and other calming measures and design and layout within the entrance as is provided for in the application. These sightlines are achievable without need for third party consent to alter boundaries or vegetation outside of the applicant's control.
- 7.10.7. The quantum of onsite parking and its layout is consistent with CDP standards and a neighbourhood predominated by and dependant on the private car for most journeys as opposed to current prioritisation of providing for and facilitating other modes of transport whereas

7.10.8. Pedestrian and cyclist linkage between the site and town centre with improved public lighting, and road works that provide for traffic calming and reduced vehicular priority to which financial contributions are required would ameliorate some trip generation. The area is not well served by public transport but there is scope for some diversity in modal choice for future occupants with some option for walking and cycling the town centre is not in immediate walking distance. Preparation of a mobility management study for the scheme would be desirable. Alternative routing for cycling and walking in that the golf course lands are adjacent to the site on one side and the N85 to the other are limited in scope.

7.10.9. Bearing the foregoing in mind, the recommendations in the stage 1 RSA provided in the further information submission and referred to in the technical reports, it is considered that it is demonstrated that, subject to submission, by compliance with a condition for completion of a Stage 2 RSA, the safety and accident risk on the R474 in the vicinity of the proposed entrance is negligible.

#### **7.11. Noise Abatement – Buffer at N85.**

7.11.1. With regard to the issues raised in the appeal as to adequacy of noise abatement, having regard to the Clare Local Authorities Noise Acton Plan, 2013 it is established that noise impacts from major transport sources are satisfactorily addressed. The submission and supplementary submission by the applicant's Noise consultants, demonstrate appropriate methodology and adequate selection of receptors for the noise level survey and for the times for the recordings conducted for the development. It is agreed that incorporation of additional buffering measures within the thirty metres setback from the edge of the N85 which has been provided for in the proposal are not essential and, notwithstanding the concerns of the Appellant, it is considered that no additional noise ameliorative measures are warranted for the purposes of protection of standards of residential amenities at the dwelling units.

7.11.2. The proposed development provides for and, addresses the requirement under the specific objective for the subject lands for an adequate buffer between the development and the edge of the N85 to protect residential amenities within the development. As no noise barrier is to be included and is not warranted the issue to adverse impacts on visual amenities that arose in the second reason for refusal of

permission for the two prior to unsuccessful applications are irrelevant. (P. A. Reg.Ref.06/2182 and P. A. Reg. Ref. 06/2256 refer.)

7.11.3. Separately with regard to the construction stage, no issues should arise subject to compliance with details with the construction environmental management plan and standard codes of practice for control of noise emissions as would be required be condition if permission is granted.

#### **7.12. Archaeology**

7.12.1. While there are no recorded monuments within the site or within 135 metres given the spatial extent of the development the planning officer in his report refers to consultation with the Council's Conservation officer /Archaeologist who considers that there is potential for subsurface remains to be encountered according to the planning officer's original report. An archaeological monitoring condition as recommended by the planning officer can be included if permission is granted.

#### **Part V**

7.13. The planning officer has confirmed in his report that an agreement in writing is in place between the planning authority and the applicant on fulfilment Part V obligations. (The planning authority's Reference No H843 refers.) A condition can be attached if permission is granted.

#### **7.14. Environmental Impact Assessment Screening (EIAR)**

7.14.1. The submissions made in connection with the application and the appeals include an EIAR screening report which has been consulted for the purposes of conducting a screening assessment. The project is a low density suburban residential development of ninety-nine dwellings with a creche and surface carparking on a greenfield 6.5-hectare site at the western edge of Ennis. It comprises phase one of a two phase development for which a masterplan drawing with details of the two phases are provided and a combined site area of 9.86 hectares is indicated.

7.14.2. The proposed development on its own and, in combination with the future second phase, is sub threshold and mandatory EIA is not required. It comes within Class at 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations,2001-2019. Mandatory EIA would be required for a development in excess of the threshold

of five hundred dwelling units and/or a site area in excess of ten hectares having regard to Class 10(b) (i) and (iv) of Part 2 of Schedule 5.

- 7.14.3. The site does not come within of any European Sites or other designated natural heritage sites and, as considered in the Appropriate Assessment, would not be likely to adversely affect any European sites or to have potential to adversely affect the integrity of any European sites having regard to the conservation objectives.
- 7.14.4. The location comes within a Flood Zone C area for which residential development is acceptable without a justification test being necessary having regard to the Flood Risk Management Guidelines, 2012. However, due to liability of flooding on lands to the north and west, the proposed drainage system includes collection storage and attenuated discharge at predevelopment green field rates to the Claureen River through the proposed outfall. There is no significant likelihood of accidental flood risk or impact on lands susceptible to flooding risk to the north and west of the site lands in the area.
- 7.14.5. No adverse impacts attributable to foul effluent is anticipated due to design of the proposed system which has a capacity to service for two hundred and thirty-four dwellings. It comprises a pumping station, rising main and gravity network and emergency storage and, ultimately it is to be taken in charge, by Irish Water. The at Clonroadmore municipal treatment plant has been upgraded and can accept and treat effluent for a p.e. of 31.150 prior to which discharge to the River Fergus so the proposed development would not result in pollution of the receiving waters.
- 7.14.6. Design and preventative measures to ensure environmental protection including potential noise and dust other impacts are provided for in Construction and Environmental Management Plan, Surface Water Management Plan, Construction Waste Management Plan.
- 7.14.7. It is established in the Traffic Impact assessment and stage 1 road safety audit that there is no increased risk to safety of human beings in the vicinity of the proposed entrance or within the site of the development with impact on traffic volumes on the road network the area being marginal.
- 7.14.8. The information available in connection with the proposed development is considered adequate for the purposes of issuing a screening determination. It is reasonable to conclude that there is no real likelihood of significant effects on the



environment arising from the proposed development and an environmental impact assessment is not required.

#### **7.15. Appropriate Assessment**

- 7.15.1. The original application lodged with the planning authority on 16<sup>th</sup> October, 2018 is accompanied by a Screening Statement and Natura Impact prepared by Scott Cawley (the original NIS) in respect of which a Bat Survey and an otter survey were also undertaken. These documents were supplemented, in the further information submission lodged with the planning authority on 11<sup>th</sup> September, 2019 by an updated Natura Impact Statement prepared by Ecofact, (the final NIS) and an additional bat survey report.
- 7.15.2. These documents in which adequate information has been provided in respect of baseline conditions, with reliance on scientific research both primary and secondary, include clearly identified potential impacts and, measures for protection of qualifying interests in view of their conservation objectives. They have been consulted for the purposes of the appropriate assessment.

#### **European Sites within the Likely Zone of Impact.**

- 7.15.3. The following twenty-two European sites are identified as coming within the “Likely Zone of Impact” that is, within fifteen kilometres of the site location.

##### Special Areas of Protection (SAC):

- The Lower River Shannon SAC (002165)
- The Pouldatig Cave SAC (00037)
- The Newhall and Edenvale Complex SAC (002091)
- Ballyalia Lake SAC (000014)
- Ballycullinan Lake SAC (000016)
- Dromore Woods and Lough SAC (000032)
- Lough Gash Turlough SAC (000051)
- Poulanagordan Cave (Quin) SAC (000064)
- East Burren Complex SAC (001926)
- Old Domestic Building (Keevagh) SAC (002010)
- Old Farm Building, Ballymacrogan SAC (002245)
- Ballycullinan, Old Domestic Building SAC (002246)

Toonagh Estate SAC (002247)  
Knockinira House SAC (002318)  
Ballyogan Lough SAC (000019)  
Moyree River System SAC (000057)  
Newgrove House SAC (002157)  
Old Domestic Buildings, Rylane SAC (002314)

Special Protection Areas. (SPA):

River Shannon and Fergus Estuaries SPA (004077)  
Ballyallia Lough SPA (004077)  
Slieve Aughty Mountains SPA (004168)  
Corofiin Wetlands SPA (004220)

7.15.4. Nineteen European Sites within the Likely Zone of Impact are screened out from further assessment because of the scale of the proposed development, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances between the European sites and the development site and, the absence of substantive linkage, functional relationship or habitat connectivity.

7.15.5. The four Special Protection Areas, (SPAS) of the twenty-two Sites within the Likely Zone of Impact can be screened out from further assessment. There is no suitable habitat for the Annex 1 Bird species in or within the vicinity of the site. There is no connectivity between the site and the SPAs with the exception of the River Shannon and River Fergus SPA but due to the nature and scale of the proposed development is such that there is no potential for impact on the birds in the tidal area within the River Shannon and River Fergus SPA which is ten kilometres downstream of the application site.

7.15.6. These nineteen European sites screened out are:

Ballyalia Lake SAC (000014)  
Ballycullinan Lake SAC (000016)  
Dromore Woods and Lough SAC (000032)  
Lough Gash Turlough SAC (000051)  
Poulanagordan Cave (Quin) SAC (000064)  
East Burren Complex SAC (001926)

Old Domestic Building (Keevagh) SAC (002010)  
Old Farm Building, Ballymacrogan SAC (002245)  
Ballycullinan, Old Domestic Building SAC (002246)  
Toonagh Estate SAC (002247)  
Knockinira House SAC (002318)  
Ballyogan Lough SAC (000019)  
Moyree River System SAC (000057)  
Newgrove House SAC (002157)  
Old Domestic Buildings, Rylane SAC (002314)  
River Shannon and Fergus Estuaries SPA (004077)  
Ballyallia Lough SPA (004077)  
Slieve Aughty Mountains SPA (004168)  
Corofiin Wetlands SPA (004220)

7.15.7. It is, therefore, reasonable to conclude that on the basis of the information available, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on these European Sites in view of the sites' conservation objectives and a Stage 2 Appropriate Assessment is not required for these nineteen sites.

7.15.8. Based on the appropriate assessment screening it is therefore concluded that the proposed development could be likely to have significant effects on three European sites within the Likely Zone of Impact having regard to their conservation objectives which are screened in as further assessment is required. The three sites are:

**The Lower River Shannon SAC (002165)** The subject site is located within one kilometre of this European site within the likely zone of impact and is a potential source for hydrological connectivity.

**The Pouldatig Cave SAC (00037)** The site is located circa 1.75 km from the site and there is a potential source of connectivity through to the foraging range of the Lesser horseshoe bat, a qualifying interest.

**The Newhall and Edenvale Complex SAC (002091)** The site is located circa 1.75 km from the site and there is a potential source of connectivity through the foraging range of the Lesser horseshoe bat, a qualifying interest.

7.15.9. A Stage II Appropriate Assessment is therefore required for these three European Sites in order to establish the effects of the proposed development on the integrity of these European sites in view of their conservation objectives:

### **Appropriate Assessment (Stage II)**

7.15.10. The Conservation Objectives and Qualifying Interests for the three European sites for which a Stage II Appropriate Assessment is required are set out below.

#### **The Lower River Shannon SAC (002165)**

The qualifying interests are:

Sandbanks which are slightly covered by sea water all the time [1110]

Estuaries [1130]

Mudflats and sandflats not covered by seawater at low tide [1140]

Coastal lagoons [1150]

Large shallow inlets and bays [1160]

Reefs [1170]

Perennial vegetation of stony banks [1220]

Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]

Salicornia and other annuals colonizing mud and sand [1310]

Atlantic salt meadows (*Glaucopuccinellietalia maritima*) [1330]

Mediterranean salt meadows (*Juncetalia maritimi*) [1410]

Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3620]

Floating River Vegetation. [3260]

*Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) [6410]

Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]

*Margaritifera* (Freshwater Pearl Mussel) [1029]

*Petromyzon marinus* (Sea Lamprey) [1095]

*Lampetra planeri* (Brook Lamprey) [1096]

*Lampetra fluviatilis* (River Lamprey) [1099]

*Salmo salar* (Salmon) [1106]

Tursiops truncatus (Common Bottlenose Dolphin) [1349]

Lutra (Otter) [1355]

The conservation objectives which are generic are either to restore or to maintain the favourable conservation condition for these qualifying interests in the SAC.

#### **The Pouladatig Cave SAC (00037)**

The qualifying interests are:

Caves [8310]

Rhinolophus hipposideros (Lesser horseshoe bat.) [1303]

The conservation objective for the Lesser horseshoe Bat is to maintain the favourable conservation condition in the SAC.

#### **The Newhall Edenvale Complex SAC (002091)**

The qualifying interests are:

Caves [8310]

Rhinolophus hipposideros (Lesser horseshoe bat.) [1303]

The conservation objective for the Lesser horseshoe Bat is to maintain the favourable conservation condition in the SAC.

#### **The Lower River Shannon SAC (002165)**

7.15.11. The site location is circa one kilometre from the Lower River Shannon SAC which extends over an area of circa 120 kilometres extending along the Shannon Valley between Killaloe and Loophead/Kerry Head and includes the Shannon Fergus River estuaries, the largest estuarine complex in Ireland which feature vast expanses of intertidal mudflats within which there are several tributaries or sub estuaries. The River Inch/Claureen an important salmonid water course comes within the SAC and is located to the north of the site.

7.15.12. According to the NPWS Site synopsis in which a full site description is available with references to the Qualifying Interests it stated that Sea lamprey, brook lamprey, river lamprey and salmon (an Annex II species) are present with spawning areas in the Lower Shannon; Floating river vegetation, (an Annex 1 habitat) is

present through the river systems within the site Water courses of plain to montane levels with the Ranunculon fluitantis and Callitricho-Batrachion vegetation is also present and otter, (an Annex V species) is present adjacent to rivers,

- 7.15.13. The main potential threats to the quality of this site, according to the NPWS Site Synopsis are that of discharged domestic and industrial waste, overgrazing, excessive reclamation and dredging/flood relief works at and adjacent to rivers, gravel extraction and fishing.

#### **Direct Effects of the Proposed Development.**

- 7.15.14. There are no significant direct effects that are likely arise as has been established in the final NIS.

#### **Indirect Effects.**

- 7.15.15. Aquatic habitats and species which are qualifying interests that, having regard to their conservation objectives could be affected by the proposed development for which further assessment is required are:

Estuaries [1130]

Water courses of plain to montane levels with the Ranunculon fluitantis and Callitricho-Batrachion vegetation [3620]

Floating River Vegetation [3260]

Petromyzon marinus (Sea Lamprey) [1095]

Lampetra planeri (Brook Lamprey) [1096]

Lampetra fluviatilis (River Lamprey) [1099]

Salmo salar (Salmon) [1106]

Lutra (Otter) [1355]

- 7.15.16. There are no potential impacts on the other qualifying interest habitats for the SAC because that there are no potential pathways for impact on such habitats and species as indicated in the final NIS.

- 7.15.17. The conservation objectives for the Estuaries, Water courses of plain to montane levels with the Ranunculon fluitantis and Callitricho-Batrachion vegetation, and Floating River Vegetation are to maintain their favourable conservation condition in Lower River Shannon SAC.

- 7.15.18. The conservation objectives of the sea lamprey, brook lamprey, river lamprey, salmon and other are to restore their favourable conservation condition in Lower River Shannon SAC.
- 7.15.19. The conservation objective of the otter is to maintain its favourable conservation condition in Lower River Shannon SAC.
- 7.15.20. The conservation objectives, potential impacts arising, proposed preventative and protection measures and, residual impacts having regard to the conservation objectives set out in Tables 8 – 14 of the NIS have been reviewed. There is a potential source pathway risk leading to significant impact on the qualifying interests having regard to their conservation objectives due to the proposed discharge of surface water from the development through the proposed outfall to the river Claureen. This is primarily attributable to potential poor water quality that could arise from pollution of surface water or ground water during the construction and operational phases of the project.
- 7.15.21. For the otter there is also potential source pathway risk of adverse impact through disturbance to foraging habitat and by light and human activity at construction and operational stages. It can also be affected by impacts on their prey fish species due to changes in water quality and hydrology by waters discharged through the proposed outfall to the river,
- 7.15.22. Otter is widespread throughout the Shannon basin and the river channel is a foraging and mammal slide, outside the site area. Otter could be affected by human activity and disturbance to habitats.
- 7.15.23. The riverbank and bank sides and surfaces were checked for the presence holts of couching sites and spraints and imprints I 2018 and 9in 2019. A suspected otter holt observed in the field survey in 2018 on the river side circa fifty metres east of the outfall location but it was not located in the subsequent walk over surveys in June 2019 for the final NIS. There was no other evidence of otters or otter movement within the site during the walk over, camera and detector surveys conducted in 2019 for the final NIS.
- 7.15.24. Atlantic Salmon occurs in the River Inch which is a spawning tributary of the River Fergus. (The river Fergus is a designated salmonid water.) There are no

spawning habitats in the vicinity of the proposed outfall location. The potential spawning and nursery areas are down-stream of the project site.

- 7.15.25. The Sea and River lamprey species may be present in the River Inch but not in the waters adjoining the proposed Outfall. Their spawning waters are downstream of the Mill Weir which acts as a barrier. These species which are vulnerable are in the lower reaches of the River Fergus according to the NIS based on references to: “Consolidated Fisher Counter Summary Report 2017” Inland Fisheries Ireland, 2018.
- 7.15.26. Brook lamprey [1096] spawning habitats are not present at the outfall location suboptimal nursery (ammocoete) being present.
- 7.15.27. Floating river vegetation is present in the River Fergus Aquatic vegetation in the River Inch consists of *sporangium emersum* which is not indicative of the Annex 1 habitat is relatively close to the outfall location but outside the SAC area.
- 7.15.28. The Estuaries habitat is not present in the area in which the outfall to the River Claureen is to be located.
- 7.15.29. For the Construction stage, for these qualifying interests, having regard to their conservation objectives, several detailed construction practice and water quality and biosecurity protection measures are specified in detail in the NIS include in the further information submission, Surface Water Management Plan (SWMP) and the Construction Environmental Management Plan. (CEMP) which were provided to the planning authority with the further information submission.
- 7.15.30. Several measures are specified in the Construction Environmental Management Plan to prevent potential contamination of surface water in the River Inch/Claureen and downstream in the River Fergus. Should dewatering be required, the undertakings prescribed include removal of the four fish species from the works area and their relocation downstream, under the direction of a qualified ecologist in accordance with a Section 14 License. Works at the outfall are to be undertaken between August and September only, outside of the lamprey spawning season of April to June.
- 7.15.31. The preventative measures also include site clearance works in wet conditions only, retention and control and storage of eroded sediments and spoil, prevention of accidental spillages removal and storage of pollutant substances and storage of construction materials and in a secure compound, avoidance of concrete



pouring or similar activities in close proximity to the River Claureen, and use of precast concrete only for the construction of the outfall to the river. Construction management measures include commitment to prevent dust, pollution; covering of excavated soils; treatment of water ingress; waste management; noise control measures, measures to prevent invasive species and environmental monitoring.

7.15.32. In addition to the above measures, in order to prevent adverse impact and disturbance to otter features potentially present, a pre-construction mammal survey is to be undertaken in winter months to establish the presence, if any of features used by otters at the location of the proposed outfall works. If any features are identified within 150 metres of the outfall works a Section 14 Derogation licence is to be sought. The outfall works are to be undertaken during daylight hours only. With adherence to the construction management measures in place the availability of prey fish species for otter would not be affected.

7.15.33. For the Operational stage, for the qualifying interests, (both the habitats and species) having regard to their conservation objectives, the surface water emanating from the development which is to be treated and attenuated and discharged at pre development greenfield rates to the Claureen River, within the area of the SAC. It is satisfactorily demonstrated in NIS, Surface Water Management Plan and associated documentation that the proposed design for the surface water drainage system providing for discharge, at an attenuated rate equivalent to the pre development greenfield rates, accordance with SUDS measures, to the River Claureen via the proposed outfall can be achieved without adverse impact on the receiving waters in the river. Following construction there would be no significant change in human activity in the vicinity of the outfall that could affect otter.

7.15.34. In view of the foregoing, for the Construction and Operational stages, the qualifying interests, having regard to their conservation objectives it can be confirmed that no direct or indirect impacts on the Lower River Shannon SAC (002165) arising from the proposed development are likely to arise.

#### **The Pouldatig Cave SAC (00037)**

7.15.35. The Pouldatig Cave SAC is of international importance and is a natural limestone, relatively short active stream cave with some rock falls and short chambers and a small entrance near Inch Bridge. The cave is suitable as a

hibernating habitat for the Lesser Horseshoe Bat. Since 1986 it has been recorded as being used as a hibernating site in that the species hangs from the roof and the walls of the main passageways and it has not been subjected to visitor disturbance. The surrounding scrub vegetation, and hedgerows are included in the site because they are foraging habitat areas and shelter beds for the Lesser Horseshoe Bat.

The qualifying interest for which there is potential for adverse impact is the Lesser Horseshoe Bat. [1303]

The conservation objective is to maintain the favourable conservation condition of the Lesser Horseshoe Bat in the Pouldatig Cave SAC.

- 7.15.36. The main threat to the conservation objective for the species which is particularly sensitive is by way of interference with foraging grounds, disturbance or disruption to the habitual flightpaths such as lengths of hedgerows and linear structures and disruption caused by artificial light. This can lead do abandonment of roosting sites and fragmented surrounding hibernating and foraging habitats for suboptimal and less viable sites and habitats. Protection of both the foraging habitats and the connectivity is essential having regard to the conservation objectives.

#### **Direct Effects of the Proposed Development.**

- 7.15.37. There are no potential direct impacts at construction or operational stages, in that the SAC is outside the area of the site of the proposed development.

#### **Indirect Effects of the Proposed Development.**

- 7.15.38. The potential indirect impact at construction stage is of potential for change to the extent and quality of potential foraging grounds and length of linear features within 2.5 km of bat roosts in the SAC.
- 7.15.39. Results of the bat survey work undertaken indicated suboptimal foraging habitat within the development site and infrequent use of the site by low numbers of the species. For the species, existing construction on land on the south side of the site and the N85 fragments the site. The species does not cross the N85 and survey results indicate the bats can fly under the N85 bridge (over the river Inch) but also return under it.
- 7.15.40. Although, the site's habitat is fragmented, suboptimal and infrequently used by the species, site clearance, preparatory works and landscaping for the proposed

development will result in no net loss of linear features such as hedgerows and treelines which are potential commuter routes for the species in that those which are to be removed are to be replaced. The landscaping measures which include creation of a buffer area at the edges of the site for use as possible commuting routes may benefit the species. It can be concluded that there are no potential indirect (negative) impacts that can significantly affect the conservation objective for the Lesser horseshoe bat in the SAC.

7.15.41. The potential indirect impact at operational stage is of change to the extent of potential foraging grounds and length of linear features and the amount of artificial lighting within 2.5 km of bat roosts in the SAC. The infrequent use of the site by the species is connected to the Pouladatig Cave SAC.

7.15.42. The development site's suboptimal and infrequently used habitat is significantly fragmented and severed from the SAC by the N85 and the N68, by the existing development and by the development to the south side of the site, the construction of which is nearing completion.

7.15.43. The site is three kilometres from the summer roost located in the SAC and two 2.5 kilometres from the potential foraging area for it. The northern end of the development site is to be retained free of houses and in it, a bat house being constructed adjacent to the settlement ponds being constructed for attenuation and storage purposes. Measures benefiting the species are attributable to the landscaping within the development incorporating the buffer area of treelines and hedgerows around the site edges and the proposed inclusion of the bat house. No additional artificial lighting will occur along the commuting routes, within 250 metres of the Inch river and the bridge. No significant indirect impacts at operational stage on the lesser horseshoe bat or the foraging habitat within the SAC would arise.

7.15.44. In view of the foregoing, for the Construction and Operational stages, for the qualifying interest, having regard to the conservation objective it can be confirmed that no direct or indirect impacts on the Pouladatig Cave SAC [1303] arising from the proposed development are likely to arise.

#### **Cumulative Impact.**

7.15.45. Taken in conjunction with the permitted residential development on the adjoining lands to the south and other existing and permitted developments in the

vicinity and on the western edges of Ennis, in conjunction with the significant fragmentation of the site relative to the SAC, its suboptimal foraging habitat and infrequent use by the species, and the landscaping measures incorporated in the proposed development, no significant additional cumulative impacts on the Lesser Horseshoe Bat, by way of decline or deterioration in roost habitats, population numbers of potential foraging grounds and linear features would occur, having regard to the conservation objectives would occur.

### **Newhall Edenvale Complex SAC (002091)**

7.15.46. There are three distinct locations within this SAC which support the Lesser Horseshoe Bat. They are: a narrow passage cave on the grounds of Newhall House; a two-storey farm outhouse at Newhall House and, a cave extending over a length of fifteen metres with multiple intercepting passageways on the grounds of Edenvale house. (Both caves have been fitted with grilles.) The species has uninterrupted access to these three locations within the SAC which are within one kilometre of each other. The cave a two-storey farm outhouse at Newhall House are used as a breeding site. The surroundings provide a suitable foraging habitat and year-round shelter for the species. It is estimated that circa five hundred bats are concurrently present at this site which is of international importance and classed as one of the most important in Europe.

7.15.47. The qualifying interest for which there is potential for adverse impact is the Lesser Horseshoe Bat. [1303]

7.15.48. The conservation objective is to maintain the favourable conservation condition of the Lesser Horseshoe Bat in the Newhall Edenvale Complex SAC.

### **Direct Effects**

7.15.49. There are no potential direct impacts at construction or operational stages, in that the SAC is outside the area of the site of the proposed development.

### **Indirect Effects.**

7.15.50. The potential indirect impact at construction stage is of change to the extent of potential foraging grounds and length of linear features within 2.5 km of bat roosts in the SAC. There is no potential for disturbance of roosts or population of roosts within the SAC and no roost is present on the site.

7.15.51. Results of the bat survey work undertaken for the final NIS indicated suboptimal foraging habitat within the development site and infrequent use of the site by low numbers of the lesser horseshoe bat. For the species, existing construction on land on the south side of the site, existing residential development and the N85 and the N68 fragment the site, to a greater degree than the Newhall Edenvale Complex SAC. The species does not cross the N85 and survey results indicate the bats can fly under the N85 bridge (over the river Inch) but that they return under it.

7.15.52. Although, the site's habitat is fragmented and suboptimal and infrequently used by the species site clearance, preparatory works and landscaping for the proposed development will result in no net loss of linear features such as hedgerows and treelines that are a potential commuter route because these hedgerows and that are to be removed are to be replaced. The landscaping measures which include creation of a buffer area with treelines and hedgerow at the edges of the site for use as possible commuting routes may benefit the species. It can be concluded that there are no potential indirect impacts that would significantly affect the conservation objective for the Lesser horseshoe bat in the SAC.

7.15.53. In view of the foregoing, for the Construction and Operational stages, for the qualifying interest, having regard to the conservation objective it can be confirmed that no direct or indirect impacts on the Newhall Edenvale Complex SAC arising from the proposed development are likely to arise.

#### **Cumulative Impact.**

7.15.54. Taking into account the permitted residential development on the adjoining lands to the south and other existing and permitted developments in the vicinity and on the western edges of Ennis, in conjunction with the significant fragmentation of the site from to the SAC, its suboptimal foraging habitat and infrequent use by the species, and the landscaping measures incorporated in the proposed development, no significant additional cumulative impacts on the Lesser Horseshoe Bat would arise by way of decline or deterioration in roost habitats, population numbers of potential foraging grounds and linear features would occur, having regard to the conservation objectives.

7.15.55. For the three European sites, the submitted final NIS contains, in Tables 8-16 a full list of the conservation objective (attribute measures) potential impacts arising

from the proposed development, the measures incorporated within the proposed construction and operational stages of the project, and, the potential residual impact which in all instances is recorded as 'not significant'. It is concluded that subject to compliance with all measures as specified in the NIS and accompanying documentation available in connection with the proposed development, no cumulative impacts that would have potential to affect the integrity of any of the three European sites would occur.

7.15.56. As it has been determined that the proposed development when considered in its own will not have significant adverse effect on European sites it could not contribute, when considered in combination with other plans and or projects to cumulative adverse effects on the integrity of European sites.

### **Conclusion.**

7.15.57. It is reasonable to conclude on the basis of the information provided on behalf of the applicant which is considered adequate in order to carry out a Stage II Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Lower River Shannon SAC (002165) The Pouldatig Cave SAC (00037) and the Newhall and Edenvale Complex SAC (002091) or any other European site, in view of their Conservation Objectives.

## **8.0 Recommendation.**

In view of the foregoing, it is recommended that the planning authority decision be overturned, and that permission be refused based on the draft reasons and considerations set out below.

## **9.0 Reasons and Considerations.**

Having regard to; the site location on lands in a suburban area at the edge of Ennis, a key town within the Mid-West Region according to the Regional Spatial and Economic Strategy for the Southern Region, and county town in the Clare County Development Plan, 2017-2023 zoned for residential development, to the

density of the proposed development at eighteen units per hectare; to the limited dwelling mix comprising mostly of three and four bed two storey detached and semi-detached houses; to the layout in which there is a lack of high quality open space provision with optimal amenity potential, a predominant main internal access road off which there are several cul de sacs and a lack of an overall street hierarchy, a predominance of road surface comprising limited cycle and pedestrian connectivity, and a lack of central focus or sense of place, it is considered that the proposed development would not deliver efficient use which would contribute to the economic and sustainable development functional to the consolidation of Ennis and would seriously injure the residential amenities of the future occupants. The proposed development would therefore be contrary to national, regional and local policy and section 28 Ministerial Guidance and to the proper planning and sustainable development of the area.

**Jane Dennehy**  
Senior Planning Inspector,  
8<sup>th</sup> April, 2020.