



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308455-20

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<b>Development</b>	Construction of 98 units & crèche to be completed in two phases.
<b>Location</b>	Drinan , Ballymahon , Co. Longford
<b>Planning Authority</b>	Longford County Council
<b>Planning Authority Reg. Ref.</b>	19202
<b>Applicant(s)</b>	Brian Rogers
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Permission
<b>Type of Appeal</b>	First Party against Conditions Third Party
<b>Appellant(s)</b>	Brian Rogers Ballymahon Residents
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29 <sup>th</sup> of January 2021
<b>Inspector</b>	Angela Brereton

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## 1.0 Site Location and Description

- 1.1. The application site has a stated area of 4.4304ha and is located within the townland of Drinan c. 500m to the north east of Ballymahon town centre. The site is located at the junction of the R392 and the local county road L1128 (Moigh Road). This triangular shaped site is within a large field area and is currently greenfield and in use for agricultural purposes.
- 1.2. The main road frontage is along the northern boundary onto the Moigh Road. There is an existing field gate from this road to the site, and a number of one-off houses on the opposite side of the road. The north eastern corner of the road frontage is onto the regional road and is not served by footpaths but does have street lights and is within the town's 50km/hr speed limit area. This is a straight stretch of the R392, although in view of the alignment visibility is restricted at the junction of the Moigh Road with the R392 particularly in a northerly direction. There is a locked gated entrance to a private access road to the east of the site accessed via the R392.
- 1.3. There are some undulations within the site which generally grades away from the R392. The roadside boundary along the Moigh Road is delineated by a stone wall and the western boundary delineated by stone walls and hedgerows. A hedgerow delineates the eastern site boundary with the private access lane. An ESB line transverses the site.
- 1.4. There are a number of housing estates located within the general area, including Moyvale housing estate (c. 75 houses and apartments) bounding the site to the east and Hawthorn Meadows (c.24 houses) on the opposite side of the R392. The Moyvale housing estate consisting of dwellings and apartments bounds the site to the south-east. To the north-west is a two-storey dwelling, associated farm buildings and private lane in addition to a pumping station adjoining this corner of the site. The housing estate An Draighean is to the north of the Moigh Road with access from the R392. A private laneway bounds the north-eastern most corner of the site with two large detached dwellings to the east of same. The lands to the west and south west are in agricultural use.

## 2.0 Proposed Development

2.1. As originally applied for this consists of the construction of 98no. residential units and creche and is to be completed in two phases to include the following:

### *The First Phase*

- (a) 46no. 2 storey semi-detached 3 bed townhouses,
- (b) 12no. 2 storey terraced 3 bed townhouses,
- (c) 4no. semi-detached single storey 2 bed townhouses and 1no. detached single storey 2 bed townhouse,
- (d) 20no. 2 bed apartments in 5no. 2 storey building units, and
- (e) A mixed use 2 storey building unit consisting of 3no. 1 bed apartments and creche with ancillary accommodation.

### *The Second Phase*

- (a) 12no. 2 storey semi-detached 3 bed townhouses on removal of a temporary sewage treatment system.

Works to include 2 new vehicular entrances, associated internal access road and junctions; carparking; footpaths; all boundary treatments and associated landscaping and open space; street lighting; associated bin and bicycle stores, a pumping station and a temporary sewage treatment system within the site which is to be removed on the upgrading of the public foul system; connection to the existing public services; and all associated ancillary site development works.

2.2. Documents submitted with the application include the following:

- Engineering Report
- Design Report
- Stage 1/2 Road Safety Audit
- Traffic Impact Report
- Water Supply Plans
- Letter from Irish Water
- Site Landscaping Plan

- Copy of Part V application

Architectural drawings including Site Layout Plan, Floor Plans, Sections and Elevations and Infrastructural drawings.

- 2.3. It is noted that the description of development changed in the revised Public Notices submitted at Further information stage and this included revisions to the design and layout and a reduction in the no. of units to 82. Regard is had to this further in the Assessment below.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

On the 16<sup>th</sup> of November 2020, Longford County Council granted permission for the proposed development subject to 18no. detailed conditions. These in summary concern issues of design and layout, boundary treatment, landscaping, the creche facility, infrastructural issues including regard to wastewater treatment, surface water drainage and attenuation systems, issues relative to access including Road Safety Audits, internal roads layout and parking, stormwater drainage issues, compliance with DMURS, hours of operation, Construction Management Plan including regard to Traffic, undergrounding of services, sustainable energy, Part V agreement, provision for cash bond/security deposits and Development Contributions.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planner's Report**

This has regard to the locational context of the site, planning history and policy, the inter departmental reports and to the submissions made.

Their Assessment Conclusion noted the residential land use zoning and previous planning history of applications on the site. They concluded that the principle of the proposed development to be acceptable. However, there are issues in relation to the layout in terms of visual and residential amenity impact which need to be addressed. They noted that the provision of a temporary treatment connection as being acceptable to Irish Water subject to certain provisos and a connection being made to

the main scheme when suitably upgraded. Also, that a number of roads issues warrant further examination and additional information.

*Council's Further Information Request:*

In summary, this included for the following:

*Design and Layout*

- Alterations to Design and Layout relative to the proposed residential element to include regard to orientation and variety in unit mix.
- Relocation of the creche to an alternative location further within the site.
- Revised proposals to increase passive surveillance.
- Revised proposals or alternatively a justification to address private open space.
- Revised Landscaping Plan.

*Traffic and Transport*

- The Traffic and Transport Assessment to address the traffic impacts to the junction of the N55/R392 and to submit details of a Traffic Monitoring Framework Plan for this junction to monitor junction performance and to address network issues.
- To have regard to findings relative to other applications (e.g. Reg.Ref.15/174 – Center Parcs Ireland Ltd) and to address cumulative impacts of other future development proposals.
- To address traffic congestion relative issues at the R392/Moigh Road junction.
- To widen the Moigh Road to 6m and to submit revised plans for consideration.
- To revise the stormwater layout along the Moigh Road.
- To provide details of public lighting.
- To revise the layout to reflect the recommendations of the Road Safety Audit.
- To confirm Road and Footpath slopes are not being exceeded within the estate.

### *Drainage*

- Compliance with the requirements of the Irish Water Report including relevant to the private on-site wastewater treatment plant (letter dated 29/08/19).
- To show the correct location of the relevant sewer line and to demonstrate legal interest over the lands.

### *Other Issues*

- To submit details of the right of way/way leave agreement indicated along a strip along the entire western boundary of the site.
- To submit a Construction Management Plan outlining measures to be taken to protect the environment and prevent nuisances occurring during construction works.

### Further Information Response

MMA Architects have submitted an F.I response which includes a revised schedule of drawings and the following in summary:

### *Design and Layout*

- The revisions have resulted in a much-altered scheme of 82 units in two phases from the original 98 units.
- Revisions include reorientation/realignment of units, new detached units, removal of some of the apartments and the centralisation of the creche.
- While there is a reduction in the number of units, the number of lifetime homes and larger family units has increased.
- 15.2% of the site is allocated for open space (does not include the wayleave area). Passive surveillance has been increased.
- A revised Landscaping Plan has been submitted.

### *Access and Traffic*

- Regard to the issues raised including in relation to the traffic impacts on the junction to N55/R392, and relative to traffic increase and the alignment of the Moigh Road. They refer to the details provided in the Technical Note Response Document prepared by TTRSA.



- They note that other technical documentation has also been submitted, including regard to the proposed surface water drainage layout and stormwater drainage proposal for the Moigh Road.
- They refer to documentation by Molloy Consulting Engineers relative to public lighting.
- The proposed revised layout has been prepared for the purposes of enabling a road safety audit by TTRSA.

#### *Drainage*

- They refer to documentation by Killian Consulting Engineers to address Irish Water concerns.
- They note the existing sewer line and advise that there are no proposed connections to any sewers in the existing wayleave/right of way to the south west.
- They note that the proposed development has no impact on the wayleave/right of way.

#### *Other issues*

- They refer to the Construction Management Plan prepared by MMA Architects.
- They note the revised redline boundary and the amended works proposed to the junction in the north east corner of the site.
- Revised Public Notices have been submitted to include the revised description of development.

#### Planner's Response

They had regard to the F.I submitted and the revisions made. They provide a summary regarding how each point was addressed. This included the following:

#### *Design and Layout*

- They noted the revised site layout and overall design redevelopment and reduction in the no. of units from 96 to 82.

- The apartments and creche facility have been relocated on the site layout and the plan includes a revised road layout and updated open space provisions. The scheme includes improvements to the Moigh Road junction.
- They note further details relative to the creche, its relocation and associated parking.
- The revised Site Layout has reduced the no. of units and has also addressed the NW and NE corners of the site. The scheme has been redesigned to include more variety in unit mix.
- A revised Landscaping Plan has been submitted.

#### *Transport and Traffic*

- A detailed Technical Note prepared by TTRSA has been submitted, which addresses the traffic impacts on the junction N55/R392 and other issues.
- The developer has submitted a letter of consent from the Council to carry out the alignment works to the Moigh Road.
- The detailed design for the Moigh Road includes an increase in the road width.
- They refer to the revised drawing showing the surface water drainage layout.
- The Killian Consulting Engineers Report includes regard to attenuation and a stormwater drainage proposal for the Moigh Road. They also have regard to layout and include road and footpath slopes.
- A revised Report and design of the proposed public lighting has been submitted by Molly Consulting.
- They refer to the revised drawings which include the recommendations of the Road Safety Audit and MMA Architects drawings.

#### *Drainage*

- The Developer has submitted a detailed report from Killian Consulting Engineers which addresses the issues raised by IW. This includes the location of the sewer line and the proposed future connections to same and details regarding the wayleave/right of way.

### *Other issues*

- They note that the Developer has submitted a preliminary Construction Management Plan prepared by MMA Architects. In addition, that a detailed CMP shall be submitted to the Council prior to the commencement of works.

Their Assessment relative to the F.I submission included regard to the following:

- Incomplete response to F.I questions
- Traffic, road design and accessibility
- Visual Impact and Residential Amenity
- Flooding and Drainage
- Wastewater Drainage
- Other Development of the area

The PA consider that in general the F.I queries raised have been addressed. They refer to the revised site layout and design for the development which addresses the concerns raised and which they consider to be acceptable and appropriate. They are satisfied that the site can accommodate the proposed development and that from a technical perspective the proposed separate wastewater treatment system can be accommodated on the site in order to facilitate the development. This is identified as a temporary measure until the Ballymahon Town waste treatment plan is upgraded by Irish Water. They consider that subject to compliance with their recommended conditions the proposed development would not seriously injure the amenities of the area nor lead to the devaluation of adjacent property; would not lead to the creation of traffic hazard nor traffic inconvenience and would therefore be in accordance with the proper planning and sustainable development of the area.

### **3.3. Other Technical Reports**

A summary of these is included in the Planner's Report, in brief they include the following:

#### Environmental Health

They recommended that the temporary wastewater treatment facility and all other drainage connections throughout the development should be designed, constructed

and operated in a manner which does not give rise to health nuisance. Also, that a Construction Management Plan which includes measures to protect the environment and prevent nuisances occurring during construction period be submitted.

### Road Design

They require the following issues to be addressed before consideration of this application and revised plans submitted:

- To assess Junction R392 and Moigh Road and to propose improvements which would be carried out by the applicant on behalf of the Council.
- In order to accommodate the future development of the Moigh road the minimum carriageway width shall be 6.0m.
- To revise the storm water layout and provide storm gullies along the L1128 Moigh Road.
- To provide details of their proposals as regard public lighting.
- To confirm and provide detailed layouts and longitudinal sections confirming the slopes are not being exceeded in the estate.

In response to the F.I submission their Section were satisfied with the application and recommended conditions. These included regard to the completion of Road Safety Audits Stage 2 and 3, access and internal roads layout, footpaths and parking, lighting, construction management.

Also, to the widening of the Moigh Road and the realignment of the junction with the R392 and stormwater drainage issues.

### Architecture Department

They recommend some revisions to the design and layout to include an increase of passive surveillance of open space, to improve some rear garden arrangements, trees to be shown on the drawings and to implement recommended design changes to the units.

Fire Department -They make a number of recommendations with regard to fire safety and management in the design and vehicular access. This includes sufficient hydrants being available from the watermain.

### Infrastructural Services

They note that the Council has given permission to apply for permission on lands in their possession at the Moigh Road and the R392 junction.

### Water Services

This notes that the Council have identified an additional risk with regard to the proposed wastewater pre-treatment on site, as it is not part of IW infrastructure and it will not be taken in charge by IW. As a result, they consider it appropriate that a special bond be required for this element of the development. They provide an estimate for the operation and maintenance of the WWTP and Pumping Station and note that no capital costs have been included in this estimate.

## **3.4. Prescribed Bodies**

### Transport Infrastructure Ireland (TII)

They seek regard to the provisions of Chapter 3 of the DoECLG Spatial Planning and National Roads Guidelines in the assessment and determination of the subject planning application. They had concerns that the Transport and Traffic Assessment submitted does not assess traffic impacts to the junction of the N55/R392, the cumulative impacts of other developments in the area (including Center Parcs). In addition, they request that a traffic monitoring framework plan for the N55 (N55/R392 Mostrim junction) be established.

Subsequent to the F.I submission, they provide that the proposed development is to be carried out strictly in accordance with the recommendations of the Transport (Traffic Impact) Assessment.

### Irish Water

They note that the upgrade to the municipal WWTP is not on the current Capital Investment Plan (CIP) but is proposed for the 2020 -2024 CIP and works will not commence prior to 2024 (subject to change).

Their comments include that if the works are to proceed in advance of these works being completed, that there will be a need to install an onsite temporary wastewater treatment plant. The proposal should also include for the decommissioning and

bypassing of the plant once the Ballymahon WWTP upgrade is completed for connection.

In their subsequent response they recommend a number of conditions.

### 3.5. **Third Party Observations**

A large number of submissions including a petition have been received from local residents expressing their concerns about the impact of the proposed development. Issues raised generally include significant impact on traffic, congestion/hazard, drainage/lack of capacity/temporary WWTS, flooding, design and layout, lack of community facilities, location of the creche, adverse impact on the landscape etc and are summarised in detail in the Planner's Report. It is noted that there is a Third Party Appeal made on behalf of the Ballymahon Residents and their concerns are considered further in the context of the grounds of appeal below.

## 4.0 **Planning History**

The Planner's Report has regard to the recent planning history of the subject site, which includes the following:

- PL14/212227 (04/1378) – Permission was granted by the Council, but subsequently refused by the Board for a housing development, consisting of 101 mixed unit types including houses and apartments. This included 2no. vehicular entrances, access roads and green areas, installation of a pumping station to service the proposed development and pump the sewerage from same to the public sewer and all ancillary works.

This was refused for 2no. reasons, in summary – (1) the proposed development would result in a substandard level of development and would seriously injure both the amenities of future occupants of the scheme and the amenities of the area; (2) the location of the proposed north-eastern entrance in close proximity to a junction, would result in traffic hazard.

- PL14/223520 (06/576) – Permission was granted by the Council and subsequently subject to conditions by the Board for the Construction of 98no.mixed housing types to include 4no. apartments and 4no. duplexes. This

development also included a creche, 2no. entrances from the public road, car parking, internal access roads, paving, sewage pumping station and all associated site works and services including extensive open space.

The Board's Condition no.1 of this permission refers to including revised plans received by ABP in June 2007. A copy of this Site Layout Plan shows that 85no. drawings and a creche appear to have been permitted. This development was never constructed, permission has expired and to date the site remains greenfield and undeveloped.

## **5.0 Policy Context**

### **5.1. National Planning Context**

- Project Ireland 2040 National Planning Framework (2018)
- Regional Planning Guidelines for the Midlands Region 2010-2022
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DECLG, 2018)
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets 2019
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) 2009
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)
- The Planning System and Flood Risk Management 2009 (including the associated Technical Appendices).

### **5.2. Longford County Development Plan 2015-2021**

Ballymahon and Lanesboro are described as Tier 4 'Local Service Towns' in the Longford Settlement Hierarchy and under the Regional Settlement Strategy in the current Regional Planning Guidelines for the Midlands Region. It is envisaged that

these towns perform important local level, residential, retailing, social and leisure functions and are providing appropriate local services to a wider rural hinterland.

Population increase in this area is noted and the Core Strategy provides target populations. Emphasis will be placed on the maintenance and consolidation of growth of these towns and the ability of the proposal to enhance the character of the settlement. Policy CS 5 includes reference to Local Service Towns.

Table 2.14 – Core Strategy Table (up to 2022) refers to zoning and housing requirement in towns and serviced settlements in Longford, including Ballymahon. As shown on the Land Use Zoning Map for Ballymahon (Appendix 1D refers), the subject site on the north western edge of the town is on land zoned Residential.

*To primarily provide for residential development; to preserve and improve residential amenity, dwellings and compatible uses including social and community facilities, open spaces and local shopping facilities.*

Regard is had to appropriate densities and consolidation of the town to create a clear urban/rural divide.

Section 2.1.2 provides the Core Strategy Strategic Aims. This includes Aim 9: *To provide a framework supported by evidence based settlement strategy, for deciding on the scale, phasing and location of new development, having regard to existing services and planned investment over the coming years.*

Objective HOU DS 6 refers to Layout and Density and includes that layouts should reflect the existing town or settlement, street frontage and to set back from roads classification.

*Roads.*

Section 5.1.1 notes that the R392 is a strategically important regional route that provides an alternative route from Mullingar to the N5. Regard is had to the protection of such routes from further access creation in the maintenance of the capacity and safety of these roads.

Specific Road Policy Roads 10 includes the N55 Ballymahon Bypass and the N55 Ballymahon to Kilcurry re-alignment.

Table 5.1 provides a Programme of Carriageway Improvement 2013-2021 which includes Ballymahon Streets Restoration/Improvement.



The R392 Ballymahon/Lanesboro improvement is a mid to longterm objective.

#### *Water Services/Drainage*

Section 5.2.1 provides that Ballymahon has one of five regional water schemes throughout the County. These schemes also facilitate 181 public sourced group water schemes.

Section 5.2.2 notes that Ballymahon has one of 15 public sewerage schemes in the County as shown on the map in Figure 5.2.

Section 5.2.3 has regard to Procedures of the Water Supply and Waste Water Services Department. This includes that Irish Water has prepared a Capital Investment Plan (CIP) outlining the indicative priorities in water services infrastructure for the three year period 2014-2016. This notes that the Council is seeking to advance the following projects that are considered to outline the additional water and wastewater infrastructure needs over the plan period and beyond. This includes the Granard, Edgeworthstown and Ballymahon Sewerage Scheme Upgrades.

It is provided that storm water management including collection and disposal will be dealt with by the Local Authority. The following works were successfully completed over the period of the previous Development Plan:- Granard/Ballymahon Regional Water Supply Scheme – Contract 3 (Water Treatment Plants Upgrades), Contract 4 (Pipelines).

#### Annex 1 Longford Housing Strategy 2015-2021

Section 5.2.1 contains the General Housing Objectives and this includes:

*It is the policy of the Council to plan positively for future housing requirements in the County in accordance with the population targets and distributions set out in the Regional Planning Guidelines for the Midland Region. In doing so, the Council will facilitate the expansion of existing settlements in a planned and coordinated fashion, ensuring that adequate provision of necessary infrastructure comes forward alongside development.*

### 5.3. Natural Heritage Designations

The site is located c. 5.5 km to the north-east of the Lough Ree SPA (Site Code: 004064) and SAC (Site Code: 000440).

### 5.4. EIA Screening

Having regard to the nature and scale of the proposed development on residentially zoned lands and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

First and Third Party Appeals have been submitted. As these raise, different issues they are considered separately under headings below.

### 6.2. First Party Appeal

Andrew Hersey Planning submitted a First Party Appeal on behalf of the Applicant Brian Rogers c/o MMA Architects. It is noted that this is an appeal against conditions nos.6 and 17 of the Council's permission Reg.Ref.19/202 to include the following:

#### Condition no.6

- To impose a condition that compels the applicant to seek permission for a wastewater treatment plant which he has already sought permission for is wrong and onerous. There is no analysis set out in the reports from Irish Water nor the Planner's Report that sets out a justification for this onerous condition.
- It is clear from both the Planner's Report and the Report from Irish Water that the concept of a temporary wastewater treatment plant was accepted in principle. The applicant considers that this condition is in error and has been worded incorrectly and should be amended.

- Reference is made to Condition nos. 16 and 17 of the Council's permission. They consider that the imposition of these bond conditions suggest that the Planning Authority were satisfied with the proposal for the temporary wastewater system, as otherwise they would not have imposed such conditions relative to bonds.
- It is clear from reading the Planner's Report and the Reports from Irish Water that there was no objection to the proposal for a temporary wastewater treatment plant. They refer to the Planner's Report and the report from Irish Water dated 17/09/20 which suggests that the concept of a temporary wastewater treatment plant was accepted in principle subject to condition.
- It is surprising that the Planning Authority would impose a condition asking the applicant to effectively re-apply for permission for a temporary wastewater plant which is an integral part of the scheme. They consider that Condition no.6 should be amended. There is no reason for the applicant to apply for permission for a wastewater treatment plant for which he has already sought permission in the current application.

#### Condition no.17

- The Applicant has no argument with the bond amount associated with this condition but considers that as it is currently worded it is erroneous and lacks clarity. They provide alternative amended wording.
- The proposed development is a direct response by the applicant to provide much needed housing to the residents of Ballymahon where there is a severe shortage – including due in part to the opening of Center Parcs in the area.
- The site is zoned for residential use in the Longford CDP 2015-2021 and is located c.500m from the centre of the village. This is a vacant site which can be considered infill and it is between two residential estates.
- Such infill residential development is supported at National, Regional and Local Planning levels.
- Issues raised by the Planning Authority such as traffic safety, visual amenity, technical and environmental considerations have been addressed. The

proposal results in an attractive and much needed housing development located adjacent to the core of the village.

- They ask the Board to uphold the Planning Authority's decision to grant permission for this worthy development and to amend condition nos. 6 of 17 of this permission.

### 6.3. Third Party Appeal

A Third Party Appeal has been made by David Mooney, Town Planning Consultant on behalf of the Ballymahon Residents. This includes the following:

- While the Appellants have no objection in principle to the proposal they require that infrastructural capacity be in place prior to the commencement of development that is robust and serviceable and does not negatively impact on the existing environment or the amenity of surrounding dwellings and uses.

The proposed development is premature as wastewater treatment for the proposed houses is not authorised by this permission

- They refer to Condition no.6 of the Council's permission and note that the text is taken directly from an Irish Water submission dated 17/09/20.
- They note that this letter includes that there is inadequate capacity in the existing infrastructure to cater for the proposed development at this time. Also, that the capacity is unlikely to be installed before the end of 2025.
- They have regard to the Quarterly Report of the Water Advisory Body Sept. 2020 relative to delays and lack of capacity in the provision of wastewater infrastructure countywide.
- They consider that in view of current circumstances that delays in the provision on infrastructure countywide including Ballymahon are more likely.
- Despite Irish Water's attempts to facilitate the proposed development using a temporary on-site system, this proposed solution still raises a number of serious concerns.
- Irish Water have emphasised that they are unwilling to take this temporary WWTP in charge. They question the efficiency of creating a scenario where

no public body is willing to take responsibility for such a critical infrastructural service.

- They note that the Developer will have to bore the costs of operation, maintenance and decommissioning at such time when the main WWTP is extended. They are concerned about this given the history of unfinished estates in Ireland.
- They have concerns in terms of protection of water quality and the need to deliver an adequate and compliant treatment system.
- They query the location of the temporary plant and note that it will be 50m away from dwellings on site until it is to be decommissioned, and question why a 100m buffer zone would not be more appropriate.
- There is no definite data for the improvement in capacity of the existing Ballymahon WWTP. They have concerns about delays in Irish Water's expansion of the WWTP (may not occur for another 10-20 years) in updating the sewerage system in the Ballymahon area.
- They submit that the proposed development should be refused on the grounds that it is premature pending the expansion of the Ballymahon WWTP.

The Applicant has not fully addressed flood risk associated with proposed Surface Water drainage

- In 2009 there was extensive flooding in the vicinity of the development site particularly along its western boundary and effecting the existing farm to the west and the houses to the North of the far. They include photos.
- To address this problem the Council installed an underground Surface Water alleviation pipe and they note details in this.
- The drawings submitted show their proposed surface water attenuation system discharging at the same point with a hydrobrake in the final manhole to limit the flow.
- They note that this item was raised by the third party objectors and the Council's response. They also note the condition recommended relative to Stormwater drainage.

- They submit that the condition included looks like a standard condition. No reference has been made to the existing stormwater drain in the adjacent field and how the proposed development would affect its capacity and function.
- They submit that the applicant and the local authority has not had due regard to the history of flooding in the immediate vicinity of the site.
- Given the pre-existing flood history in the immediate area, it is submitted that a SuDS solution would be more beneficial to the surrounding land uses than the proposed underground attenuation and hydrobrake system.
- They refer to the Greater Dublin Drainage Study – Regional Drainage Policies and to the benefits of SuDS relative to Water Quality, Volume of water discharged and Rate of discharge to watercourse.
- In summary they conclude that the impact of the proposed development on local flood risk and on local flood infrastructure has not been adequately assessed. They submit that a Flood Risk Assessment Report should be submitted.

#### Roads/Junction Layout

- They submit that the layout of the revised junction of the Moigh Road with the R392 is outside the red boundary line. Notwithstanding this the junction design has not been fully finalised under the F.I submission and still presents a number of safety/traffic hazards.
- The Planning Authority seeks the implementation of RSA 2 and the carrying out of an RSA 3. They submit that the junction redesign should be required to pass these assessments prior to the granting of permission.
- They note that in the Council's F.I request the Local Authority acknowledges that there will be a significant increase in traffic on the Moigh Road, the majority which will use the junction with the R392.
- They submit that the proposed junction realignment provides a slight improvement to the existing junction but still retains many of the same traffic hazard and safety issues as the existing junction.

- They consider that the Road Safety Audit (Appendix 2) suggests that it is incomplete and will require further design amendments in the construction phase. It does not contain a detailed assessment of the proposed realignment of the junction between the Moigh Road and the R392. They refer to Condition no. 8 of the Council's permission.
- While the proposed junction re-alignment aims to improve the current situation it will lead to more traffic congestion in the vicinity. They submit that a signalised controlled junction or a roundabout would offer a safer solution and would lead to less traffic congestion in the area.

#### Layout of Public Open Space

- They are concerned that this is not equally distributed throughout the scheme or accessible to all.
- The southwestern part of the site adjacent to the WWTP is not in an attractive location and maybe susceptible to odour.
- The areas of public open space throughout the development do not demonstrate a coherence or functionality and too often appear to be left over spaces beside gable ends or at the rear of houses.
- They suggest that the applicant complete a *Design Statement* to assess the ability of the development to encompass the objectives set out in the Urban Design Manual 2009.
- They submit that the layout of the development is substandard and does not accord with the principles of the Design Manual 2009. That is should be refused permission and redesigned in accordance with the these principles.

#### Conclusion

- They submit that the appellant has good reason to require the Board to consider this planning application *de novo*.
- The proposal is premature as the existing WWTP does not have the capacity to cater for it and the authority responsible for its maintenance and expansion does not have any immediate plans to expand it.

- The impact of the proposed development has not been adequately assessed in terms of flood risk and the potential negative impact on the existing flood infrastructure which it proposes to connect to.
- They submit that the proposal is premature without finalising the redesign of the junction.
- They have identified deficiencies in the proposed layout of the scheme and request that it be redesigned to accord with best practice guidelines issued by the National Government.
- On the basis of their submission, they request the Board to refuse permission.

#### 6.4. First Party Response

Andrew Hersey Planning Consultant has submitted a response on behalf of the First Party to the Third Party Grounds of Appeal. This includes the following:

- The First Party have already submitted an appeal against Condition nos. 6 and 17 which they consider are both onerous and indecipherable.
- They recognise the concerns of the Ballymahon residents and set out the positive aspects of the proposal, in order to give a complete picture of this positive and sustainable residential development.

##### *Site Context and response to surroundings*

- They note the proximity to other housing estates and to Ballymahon Town Centre and proximity to shops and services.
- They provide that the proposal is compliant with the core principles of *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009*.
- They have regard to the Planning History and note that the Board granted permission for 98no. units previously under Ref. PL14.223520, which has expired.
- They consider that the proposal represents an infill site, provides a variety of unit types and complies with planning policy and guidelines.



- In view of its locational context the proposal is well connected to the neighbourhood and within walking distance of the town centre

#### *Design and Layout*

- They consider that the open space is well distributed within the site. That the design and layout complies with the *Sustainable Residential Development in Urban Areas Guidelines 2009*.
- They consider that the proposal complies with and provide a breakdown under headings relative to the 12 criteria from the Urban Design Manual and consider that the proposal complies with each of these criteria.
- Having regard to the density issue, they provide that it corresponds with the Sustainable Residential standards for Edge of town locations. However, they are prepared to revert to the 98 units per hectare as originally proposed if the Board considers the proposed density too low.

#### *Drainage*

- They provide details of the proposed development as revised in their Further Information Submission. The planning application included for the construction of a temporary WWTP is an integral part of the first phase of the proposed development. They note that the second phase will be constructed on the removal of the temporary sewerage system, when the Ballymahon Municipal Plant is upgraded.
- While it is accepted that there is no definitive date for the upgrade they note that it has been put forward in the 2020-2024 investment plan. In addition, that Irish Water has accepted the principle of a temporary WWTP pending the upgrade to the Municipal Plant.
- They submit that there would be no negative impact on the site or surrounding area from the proposed temporary WWTP. They urge the Board to uphold the Council's decision to grant but to amend Condition no.6 so that the applicant is not required to seek permission for the onsite WWTP for which has already been applied for under this application.

- They refer to the Wastewater treatment Systems for Small Communities, Business, Leisure Centres and Hotels (EPA 1999) and consider that the 50m buffer zone proposed complies with Table 4 of these Guidelines.
- The concerns that the Ballymahon WWTP upgrade will not be in place for a number of years is purely speculative. IW state the proposed upgrade will be in the 2020-2024 treatment programme.

#### *Flood Risk*

- They note concerns about flood risk in the area in particular on the Moigh Road proximate to the site. They contend that the construction of a drainage pipe along the adjacent field appears to have resolved the problem as no flooding has occurred in the area since 2010.
- They refer to *The Planning System and Flood Risk Guidelines* and to recommendations relative to a sequential approach and the precautionary principle and include Tables. They note that the site is located in Zone C with Low Probability of Flooding.
- They refer to surface water attenuation note the provision of an ample attenuation tank and regulation of flow. Also, that the applicant will adhere to the principles of SuDS and if the Board require further details, this could be conditioned.

#### *Access and Roads*

- The alignment of the Moigh Road at the junction with the R392 is proposed to be completely altered in response to the F.I request. This was done to reduce traffic hazard.
- This has resulted in the red line boundary of the site altering to a minor degree, which will benefit all users of the Moigh Road. These extra lands are in the ownership of the Council and they have submitted a letter of consent.
- They note that the Council's Road Design Section was satisfied with the proposed junction alignment in the F.I submitted subject to recommended conditions.

- They consider that the Appellants concerns about Road Safety are unfounded as the proposal is subject to several RSA's including a Stage 3 RSA. The proposal poses no traffic risks and they urge the Board to uphold the Council's decision and to grant permission.

### *Conclusion*

- They conclude that the proposal will result in a well designed housing estate, including variety in unit types, in an edge of town location, within walking distance of the amenities and facilities of the town.
- That the proposal is for a sustainable development and is in accordance with planning policy and guidelines.
- They include the following:
  - A letter of consent from the Council to facilitate works at the junction of Moigh Road and the R392.
  - A Site Layout Plan showing indicative proposals for 16 further units.

## **6.5. Planning Authority Response**

This has regard to the First and Third Party Appeals and includes two separate responses dated 25<sup>th</sup> of November 2020 and 17<sup>th</sup> of December 2020. In summary their response to these appeals includes the following:

### Response to First Party Appeal

- They have regard to Condition no.6 and to the comments of Irish Water. They note that provision for the temporary wastewater treatment plant was included in the description of development. They recommend the wording of this condition be amended to omit the reference regarding the need to seek planning permission for the private wastewater treatment system.
- They note that the report of Irish Water included within part (c) in terms of the discharge limits needs to be revised. They refer to the report sought from the Council's Water Services Section and included in Appendix 2.

- Details are given relative to the Planning Authority reasoning for the inclusion of Condition nos.6 and 6a relative to the temporary WWTP.
- They note that Condition nos. 16 and 17 were included requiring the lodgement of a cash deposit, bond, or security. No.16 specifically provides for the satisfactory completion and maintenance of the on-site WWTS; and No.17 for the decommissioning of the on-site WWTS, once the Ballymahon WWTP has been upgraded.
- The bonds seek to reduce and minimise the financial burden on the Council's Water Services Section and to ensure the provision of suitable and satisfactory temporary WWTS for the development site.
- They note the original estimates and provide that the Council (Appendix 2 Water Services Report refers) has now amended and revised calculation for the Bond amounts in respect of those stated in Conditions 16 and 17. They provide details of the calculations.
- They recommend that if the Board are minded to uphold the grant of permission that condition nos. 16 and 17 are retained and the value of the bonds increased in order to ensure that the temporary WWTS is provided, completed and maintained, and once not required, decommissioned.

#### Response to Third Party Appeal

- Relative to the prematurity issue they note the provision of the temporary WWTP and their recommended revisions to Condition no.6.
- Potential flood risks were assessed as part of the initial planning assessment and the matters identified in respect of roadside drainage and surface water attenuation proposed for the development.
- They have noted comments about the junction.
- They consider that the revised design of layout allows for an adequate amount and good distribution of public open space.
- The Council acknowledges the existing need for residential on zoned land in Ballymahon.

- They acknowledge the capacity issues and potential constraints and the report of Irish Water and the recommendation to support this application through the provision of a temporary WWTP.
- They remain of the opinion that the revised and approved layout for 82 residential units provides the best layout for the development when tested against the Urban Design Manual – A Best Practice Guide DEHLG (2009) and the 12 design criteria.
- They ask the Board to consider the Council’s Planning Reports and their comments when making their decision on this planning application.
- They support the revised proposal to provide 82no. residential units on appropriately zoned land and acknowledge the existing need for housing within Ballymahon town.

#### **6.6. First Party Response to the Council’s Response**

They note that they have engaged the services of Killian Engineers, and in particular their Report specifically examines and refutes the increased value of the bonds in Condition nos. 16 and 17 now proposed by the Council. Their response includes the following:

- They welcome the Council’s proposed changes to Condition no.6 so that there is no need to apply for separate permission for the temporary WWTS.
- They note that Condition no. 6(a) imposes a greater level of treatment in the proposed temporary WWTP. They consider that the Council is imposing these treatment parameters which have not been sanctioned by Irish Water.
- They refer to IW Reports included in the assessment of the application and to the revised reports submitted by the Council’s Infrastructure Section subsequent to the Council’s decision.
- While they had no issue with the original monetary values of these bonds, they consider the values of revised bonds for condition nos.16 and 17 are excessive and will make the project unviable.

- They are of the opinion that the imposition of these increased bonds at this late stage during the appeal process is unjustified.
- They note that the Council granted 37 houses in Ballymahon with direct connection to the main sewer. This decision has been recently upheld by the Board (Ref. ABP. 307880-20).
- Their conclusion requests that the decision of Longford County Council be upheld, that the revised increased bond Conditions 16 and 17 as advised in the submission to the Board from the Council be disregarded, that Condition 6 be reworded so that the applicant is not advised to seek further permission for the temporary WWTP.

### 6.7. Third Party Response

David Mooney, Town Planning Consultant response on behalf of the Third Party the Ballymahon Residents includes the following:

- They have regard to an EPA press release and associated report dated 22<sup>nd</sup> of November 2020 regarding uncertainty and delays in delivering critical wastewater infrastructure (Appendix 1 refers). Also, a story on RTE news online (Appendix 2 refers). They provide that this does not give Ballymahon residents confidence that the town WWTP will be improved within the current proposed timeline or as part of the 2020-2024 Investment Plan.
- They are concerned relative to the maintenance of the temporary WWTP and possibilities of abandonment by the private developer, since it would not be taken in charge.
- They have regard to the Longford County Council's leaflet *Guide for Residents Living in Unfinished Housing Developments* – Appendix 6 refers and to the responsibilities ensuing for private residents relative to issues with the maintenance of such systems.
- While this outcome is not the intention of any of the stakeholders at the onset yet they note that it has been played out in other estates in the country.
- They provide that Irish Water needs to take responsibility for the temporary onsite wastewater treatment infrastructure.

## 7.0 Assessment

### 7.1. Principle of Development and Planning Policy

- 7.1.1. Ballymahon is described in the Longford County Development Plan 2015-2021 as a tier 4 local service centre. Appendix 1 of the Plan contains the zonings and includes regard to development within the market town of Ballymahon. Reference is also had to the residential zoning so that existing residential areas are augmented and areas where gaps or ‘leapfrogging’ of development have occurred are infilled creating a clear urban/rural divide. This includes reference to the north western approach to the town. The subject site is within the boundaries of Ballymahon and is on land zoned residential. It is an edge of town site which is currently greenfield and in agricultural use. While proximate to other housing development to the north and south and on the opposite side of the R392 to the east, it is in a more peripheral location at the edge of town.
- 7.1.2. The National Planning Framework Project Ireland 2040 includes reference to achieving effective density and consolidation rather than more urban sprawl as a top priority. National Policy Objective 18a seeks to: *Support the proportionate growth of and appropriately designed development in rural towns that will contribute to their regeneration and renewal, including interventions in the public realm, the provision of amenities, the acquisition of sites and the provision of services.* It also provides that: *It is necessary to tailor the scale, design and layout of housing in rural towns to ensure that a suburban or high density urban approach is not applied to a rural setting and that development responds to the character, scale and density of the town.* However, it notes the issue of historically low-density housing development in rural towns and in general seeks to increase well designed residential density to increase efficiency and sustainability.
- 7.1.3. The First Party provide that they recognise the acute housing shortage in Ballymahon and the surrounding hinterland to serve the local population and the needs of workers in Center Parcs Ireland Holiday Park. It is provided that the principle of development is consistent with the National Planning Framework which seeks to facilitate and support the consolidation and compact growth of existing towns and settlements.

7.1.4. The Third Party Appellants the Ballymahon Residents, concerns relate to several issues regarding the overall development. They are concerned that the proposal in its current form including the design and layout has the potential to significantly negatively impact on the surrounding environment in terms of sewage treatment – the use of a temporary wastewater treatment system, flood risk and traffic hazard and that it will impact adversely on the character and the amenities of existing and future residents.

7.1.5. While the principle of residential development on appropriately zoned lands is acceptable regard is had to the issues raised and to the documentation submitted. This includes the First Party appeal against conditions no. 6 and 17 of the Council's permission and the Third Party appeal relative to concerns regarding the development proposed as a whole. In view of the issues raised the proposal is considered *de novo* in this Assessment below.

## 7.2. Density issues

7.2.1. Regard is had to the 'Sustainable Residential Development in Urban Areas' (May 2009). Chapter 6 of these Guidelines refers to Small Towns and Villages (pop. 400 - 5,000 persons). This includes that each residential scheme within a small town or village should be designed to make the most effective use of the site, make a positive contribution to its surroundings, have a sense of identity and place, provide for effective connectivity, include a design approach to public areas such as streets and open spaces and encourage a safe sense of place. In this case having regard to section 6.11(b) of the Guidelines, the site is considered to be an 'Edge of centre site' *where densities to a range of 20-35 dwellings per hectare will be appropriate including a wide variety of housing types from detached dwellings to terraced and apartment style accommodation.*

7.2.2. It is submitted by the Third Party that the scale of development is excessive relative to its proximity to the countryside and rural landscape. It is noted that 98 units on a site of 4.43ha equates to 22.1 residential units per hectare and the reduction to 82 units equate to 18.5 residential units per hectare. Therefore, it must be noted that the revised plan is below the 20-35 dwellings per hectare as recommended in the Guidelines.



- 7.2.3. In this respect the Guidelines allow for lower densities of 15-20 dwellings per hectare along or inside the *Edge of small town/village locations (Section 6.12 refers)*. The First Party contends that this could be considered as such a case as the site is on an edge of centre location. Therefore, the proposed density of 18.5 units per hectare would comply with this lower density. However, it must be noted that Ballymahon is not considered as a village but as a Tier 4 Local Service Town in the Longford CDP 2015-2021.
- 7.2.4. The First Party also provide that if the Board considers this density too low they could revert to the scheme as originally submitted for 98no. units, which they provide would be more in line with national policy and provide ample open space. It is also of note that the Killian Engineering Report provides that if the Board considers the proposed density of 82no. units too low, that the original density should apply and that additional dwellings be constructed as part of phase 2.
- 7.2.5. Having regard to the density issue, the First Party response has included an outline of an indicative layout to include proposals for a further 16 units within the scheme to take account of the realignment of the junction. I would consider that there is some lack of clarity regarding appropriate density and would be concerned that such revisions/indicative layouts have not been detailed or advertised and would introduce a new concept and that it would not be appropriate to consider such as part of the current application. They would have to be considered by way of a new application.

### 7.3. **Design and Layout**

- 7.3.1. As shown on the plans originally submitted the proposed development sought permission for the construction of 98no. residential units and a creche to be completed in two phases and all associated site development works. A Design Report and drawings were submitted providing details of the scheme. It is noted that the Council had a number of concerns as expressed in the Planner's Report and inter departmental reports including relevant to issues of design and layout, access and roads and infrastructure. Note was also had to the issues raised by the Prescribed Bodies including Irish Water and Transport Infrastructure Ireland (TII). In addition, to the number of submissions made by local residents. Further information including revised Public Notices were submitted in response to the Council's F.I

request. Having regard to the scheme as originally submitted and in view of the concerns/issues raised in particular relative to access, and the junction realignment, and the distribution of public open space, I would consider that it would not achieve an appropriate design and layout for the subject site and that the scheme for 98no. units as originally submitted would not be in the interests of proper planning and sustainable development.

- 7.3.2. Policy CS1 of the Longford CDP has been established as a key aim of the Settlement Strategy to facilitate its delivery on a strategic level. This includes regard to urban settlements and to the *Sustainable Residential Development in Urban Areas (2009)* which promotes excellent urban design in accordance with the 12 urban design principles set out in the *Urban Design Manual – A Best Practice Guide (2009)* which in combination with the national guidelines advocate high quality sustainable development that are well designed and built to integrate with the existing or new communities and the design manual provides best practice design criteria such as context, connections, inclusivity, variety, efficiency, layout etc. The proposed development is assessed relative to these criteria in greater detail below for the impact on existing residential development.

#### Residential

- 7.3.3. The Further Information response includes revisions to the original layout presented to the Council including alterations to the NW and NE corners of the site that border onto the Moigh Road, the centralisation of the proposed creche, the introduction of larger 4 bed detached units, the removal of a number of apartments and a terrace, and it is provided improved surveillance of public open space. Revisions to the layout have reduced the no. of units to 82. The first phase to consist of 32no. 2 storey semi-detached 3 bed townhouses; 6no. 2 bed single storey semi-detached lifetime houses; 16no. 2 bed apartment units; 3no. 1 bed apartment units; 8no. 3 bed terraced units; 5no. detached 4 bed roomed units and a centrally located creche. This allows for 70no. mixed units in phase one. A further 12no. houses are to be included as part of phase 2.
- 7.3.4. It is considered that the revised plans allow for a greater mix of units and is noted that the proposed locations of the varying unit types are shown colour coded on the revised drawings submitted. Details are also given of the external finishes and a

schedule of floor areas relative to unit types is given on the revised drawings. While the 3 bed semi is the dominant form there is a greater variety of units. It is noted that the terraced dwellings are shown more centrally located. Two-storey apartment blocks are shown facing the Moigh Road and on either side of the access roads in the north eastern part of the site. It is submitted that the 4 bed detached units are shown positioned at significant corners and focal points throughout the development to add variation and detail to these areas. There is a relocation and increase in the no. of lifetime homes.

- 7.3.5. It is provided that the second phase will consist of 10no. 2 storey semi-detached townhouses and 2no. detached 4 bed townhouses which will be constructed in the southern part of the site on the removal of the temporary sewage treatment system. Connection will also be made to the upgraded Ballymahon Municipal Treatment Plant. This will result in 82no. units in total.
- 7.3.6. Contextual Elevations have been submitted showing views from the Moigh Road frontage and sections across the site. In general, I would consider that provided quality external finishes are used the design of the proposed residential units as presented as part of the F.I to be acceptable. Also, the apartment units appear to be in accordance with standards including the Apartment Guidelines. However, while there is some variety in unit mix and in house types, including 16no. 2 bed apartments in 2 storey blocks, I would have some concern that there is a dominance of larger 3 and 4no. bedroom dwellings. Also, about the distribution of public open space and the orientation of the dwelling units relative to the open space. In addition, that the density proposed in the revised scheme is relatively low for residentially zoned land within 500m of Ballymahon town centre. It is noted that the adjoining residential development to the south Moyvale includes some 3 storey apartment blocks.

#### The Creche

- 7.3.7. On the original plans the creche was to be located at the North Eastern corner of the site. There was concern about the location of the creche in conjunction with the pedestrian entrance, and impact on access/traffic congestion/parking and proximate existing residential development. Also, as to why the creche cannot be purpose built

without the 3no. private apartments above, which could lead to potential security issues.

- 7.3.8. In response to the Council's F.I request, the creche is shown in a more centrally located position and includes a one-way traffic system to allow for the operation of the creche while not affecting general traffic movements on site. The proposed creche has maintained a two-classroom format with a matching capacity of the original with capacity for c.30 children and 3 staff members. The building also includes 3no. apartments 1 bed apartments, 2no. on first floor and 1no. on ground floor levels. I would be concerned about the location of the 1no. bed apartment adjacent to the creche at ground floor level. I would recommend that if the Board decides to permit that it be conditioned that this apartment be omitted and the area be revised to form part of the creche building.

#### Other issues

- 7.3.9. The proposal also includes for the Moigh Road/R392 junction realignment, 2no. new vehicular entrances off the Moigh Road, associated internal access roads and junctions, carparking, footpaths, all boundary treatments and associated landscaping and open space, street lighting, associated bin and bicycle stores, a pumping station and temporary sewage treatment system within the site and all associated ancillary site works. Regard is had further to these in this Assessment below.

### **7.4. Landscaping and Open Space**

- 7.4.1. There is concern that the distribution of public open space in the wider housing layout is not optimum and has not been improved substantially in the F.I submission. The revised site layout plan confirms that the open space provided for the site is 6,741sq.m or 15.2% of the site area. Excluding the wayleave the open space equates to 16.5%. It is noted that in addition this does not include the green areas that face onto the Moigh Road within the boundary of the site that equate to 1603sq.m and the 134sq.m play area given to the creche. Regard is had to the total area of open space provided within the site layout in terms of location and the size and distribution of the space within the revised site layout.
- 7.4.2. It is noted that the distribution has changed relative to the revised plans submitted as part of the F.I. This is partly due to the changes in the overall layout including the

road realignment at the junction of the Moigh Road with the R392. The First Party considers the overall layout and distribution of open space to be acceptable and in accordance with 12 criteria as per the *Urban Design Manual 2009*. However, I note that there is no significant central area of open space that is not subdivided by roads. Also, the orientation of the units relative to the open space is not optimum. I would consider that the distribution/ accessibility of the open space could be improved particularly for the units at the eastern side of the site and at the southern end where it will be in the vicinity of the temporary WWTP. I also note that the dwelling units along the Moigh Road frontage are backing onto the main areas of open space. A redistribution of open space would require a revised layout.

- 7.4.3. Issues concerning boundary treatment have been raised. It is noted that these currently comprise hedgerows and low stone walls. This appears as an open greenfield site and there are no significant trees or landscaping within. It is noted that Landscaping Plans and Landscape Specifications have been submitted and it is recommended that these and boundary treatment be conditioned should the Board decide to permit.

## **7.5. Impact on the Character and Amenities of the Area**

- 7.5.1. The site is within 500m of the in-centre core of the town of Ballymahon. The central core functions have extended out along the R392 towards the site. These include 3no. schools, church, dispensary and retailing within the town. The site while it appears rural is to the north west of the town centre is relatively car dependant but is proximate to the town centre and its functions.
- 7.5.2. There is Third Party concern that the town of Ballymahon is not capable of dealing with this level of population increase and that there is a lack of social/community facilities in the area. This includes lack of capacity at local schools, social services etc. That the Primary and Secondary Schools are at capacity. In addition, it is submitted that the proposal will impact on the privacy of existing residents, particularly those on the opposite side of the Moigh Road and will lead to anti-social behaviour, litter and noise. It is provided that there are numerous vacant properties in estates in the town that should be considered to provide housing.

- 7.6. On site I noted that the residential estate Moyvale to the south east contains a mix of two storey semi-detached and terraced dwellings. There are also some 3 storey apartments in two separate blocks at the southernmost part of the site. I noted a no. of properties boarded up and for sale in the Moyvale estate. In view of the private laneway there are no connections between the subject site and this estate, which is closer to the town than the subject site.
- 7.6.1. There are concerns that the design and layout of the proposed development will detract from the character of the area. It is provided that the north western edge of Ballymahon is highly valued for its rural landscape, tranquillity and proximity to the countryside. In the vicinity there is also Royal Canal walks and the greenway. The Third Party submit that the proposal for phased development will lengthen construction periods and that existing residences in the area will be adversely impacted by construction traffic, noise, dust and hours of operation for construction works. Regard is had to the Construction Plan submitted for Phase one. If the Board decides to permit it is recommended that a Construction Management Plan to include regard to these issues for both phases be conditioned.

## **7.7. Access and Roads Layout**

- 7.7.1. The site comprises c.4.4ha of flat agricultural land with extensive frontage onto the Moigh Road, the L1128. The Moigh Road connects with the R392 on the north eastern corner of the site. It is proposed to provide two vehicular access/egress points from the development onto the Moigh Road.
- 7.7.2. The Third Party is concerned that the road network in the immediate area is inadequate. That the Moigh Road (L1128) will not be able to cater for the traffic generated by the additional residences proposed in the development. That already there are road safety issues and poor visibility/sightlines at the proposed accesses. That the proposal would lead to congestion at the junction of the L1128 with the R392 and additional road safety hazard. Submissions made provide that the R392 in this area, is already a very busy and congested route. That it serves the existing housing estates in the area and is supplemented by traffic to and from Longford town. It is also used as an access route to local schools in the town. They suggest

that traffic safety measures should be considered including the provision of a suitable roundabout junction.

- 7.7.3. A Stage 1/2 Road Safety Audit was submitted with the application. This included recommendations about the internal roads layout including relative to the siting of the creche. It recommended that the Moigh Road carriageway will be widened along the site frontage to include a footpath. Regard was also had to surface water drainage along the site frontage. It provided that a Stage 2 RSA should be undertaken on the detailed design elements of the proposed development site prior to construction.
- 7.7.4. A Traffic and Transport Assessment by TTRSA has been submitted. This provides an assessment of development impact, and of the junction operation using traffic modelling. Regard is also had to the internal layout of the proposed development and to external access. The TII referred to the Center Parcs Ireland Ltd application (Reg.Ref. 15/174 and Ref. PL14.246336) and noted that the Traffic and Transport Assessment, does not assess capacity constraints and traffic impacts to the junction of the N55/392 (Mostrim Road Junction) to monitor junction performance and to address future network issues.
- 7.7.5. A Technical Note has been submitted in response to the Council's F.I request. This includes regard to traffic modelling, taking into account the cumulative impacts of existing and future development, and provides that the proposed development will have minimal impact on the operation of the planned traffic signal controlled layout for the junction which is forecast to operate with spare capacity in the future (2037). In addition, that this will address the identified junction performance and future network issues. They also note junction performance (N55/R392 Nally's Cross junction) and refer to the TTA submitted with the planning application (15/174) for the Center Parcs development. They provide that an ongoing traffic monitoring framework plan for this junction is not necessary or appropriate at the current time.
- 7.7.6. It is noted that as shown on the revised plans the widening of and realignment of the Moigh Road including at the junction with the R392 has been altered in response to the Council's F.I request. This was done in order to reduce the risk of traffic hazard at the junction for existing users and the future residents of the proposed development and to be of benefit to existing and proposed new users. As shown on the revised drawings here have been some alterations to the layout and to the red

line site boundary to facilitate this. It is provided that these extra lands comprise of part of the road and footpath which are within the control of the local authority and they have submitted a letter of consent.

- 7.7.7. The Third Party consider that while the revised plans represent some improvement to the junction with the R392, the proposal is unsatisfactory to adjoining residents, particularly those residing on Moigh Road and those who have voiced concerns about traffic congestion. A solution which ensures traffic and pedestrian safety and also smooth traffic flow needs to be established prior to the granting of permission. The issue of adverse impact on Road Safety has also been raised.
- 7.7.8. Regard is had to the Road Safety Audits submitted that identified a number of elements relative to the design of the proposed junction with the Moigh Road with the R392, which had the potential to cause traffic hazard. It is noted that the Council's Road Design Section are satisfied with the revised proposal subject to conditions. This also includes that the revised layout be subject to a Stage 2 RSA and that a Stage 3 RSA be carried out on the completed development. The TII does not object to the revised layout and recommends that it be undertaken strictly in accordance with the recommendations of the TIA and these incorporated as conditions. The First Party notes that the proposals are subject to a three stage RSA and provide that therefore it poses no traffic safety risk and they urge the Board to uphold the Council's decision to grant permission.
- 7.7.9. It is noted that the area while within walking distance of Ballymahon Town Centre is car dominated and is not well served by public transport. This is reflected by the number of carparking spaces shown in accordance with standards as an integral part of the layout. However, as noted in the TTA there are some Bus Eireann routes that go via Ballymahon. As shown on the plans it would be important to provide a footpath along the southern side of the Moigh Road, and to provide an extension to footpaths along the site frontage with the R392 to connect with the town centre. Cycle access is to be via the existing road network, which does not include cycle lanes. No external improvements to cycling facilities to the external road network are proposed as part of this development. It is also noted that the proposal does not provide for permeability i.e. linkages from the south eastern side of the site to the adjacent Moyvale Estate. The subject site is seen as an entity and pedestrian access is restricted in view of the private access lane to the south east of the site.



7.7.10. Regard is had to the standards of the national guidance, DMURS, and the revised design and I consider that as noted in the documentation submitted and having regard to the Councils and TII comments, that access into the site and internal road network are in general acceptable for the proposed development. However, I would have some concerns about permeability and connectivity particularly to the east/south eastern part of the site and the lack of facilities for cyclists. It is recommended that if the Board decides to permit that appropriate conditions be included regarding access and roads layout.

## 7.8. Drainage issues

7.8.1. The Killian Consulting Engineers Report submitted, provides details on Foul and Surface Water drainage including attenuation details. It is noted that this is an unserviced site. There are existing Longford Co.Co Pumping Stations to the North West of the South East (Moyville Estate). There is an existing open water reservoir and water course to the south east of the site. An attenuation tank is currently proposed in the southern part of the site and regard needs to be had the inclusion of SuDS relative to surface water drainage.

### Foul Drainage

7.8.2. It is proposed to collect all the foul sewerage from the development by gravity and pipe to proposed new treatment plant. Details are provided in Appendix D of the Killian Consulting Engineers Report for Treatment Plant Design and Calculations and pumping station. The treated sewerage is then to be pumped to the existing public sewer on the R392 through a proposed new pumping station within the site. This temporary WWTS is to be located at the southern end of the site as shown on the drawings.

7.8.3. The current WWTP serving Ballymahon is at maximum capacity and there is a need for upgrading. It is noted that Irish Water provides (letter dated 29/08/19) that in order to accommodate the proposed connection the municipal WWTP requires an upgrade to be completed. They note that this upgrade is not on the current Capital Investment Plan (CIP) and is currently proposed for the 2020 to 2024 CIP where works will not commence prior to 2024 (subject to change).

- 7.8.4. Irish Water provide that if this development is to proceed in advance of these works being completed, that an onsite treatment plant to treat the wastewater to agreed parameters could be installed to discharge the treated effluent to sewer. They advise that the applicant will be required to seek planning permission and all and any other necessary approvals to provide, operate and maintain a private onsite wastewater treatment at the applicant's own risk and the treatment works will not be taken in charge by Irish Water. The operation of such treatment works could continue until such time as the Ballymahon WWTP upgrade is completed. In addition, the design of the private onsite wastewater treatment plant should also include for the decommissioning and bypassing of the plant once the Ballymahon WWTP upgrade is completed. They note discharge limits. In addition, that should the applicant wish to dispose of sludge from the onsite wastewater treatment plan to an Irish Water facility, the applicant is required to enter into a Tankered Wastewater Agreement with Irish Water.
- 7.8.5. They provide that where the applicant proposes to connect to a public water/wastewater network operated by IW that the applicant has to sign a connection agreement with IW prior to the commencement of the development and adhere to the standards and conditions set out in that agreement. Also, that in the interests of Public Health and Environmental Sustainability IW Infrastructure capacity requirements and proposed connections to the Water and Wastewater Infrastructure will be subject to the constraints of the Irish Water Capital Investment Programme.
- 7.8.6. While this is proposed there is concern that there is no definite timeframe and that it is not envisaged that it will take place for another few years. This development proposes to provide a temporary onsite treatment plant. There is concern that the proposal is premature pending the upgrade of the municipal WWTP. That there is no indication of when the WWTP will be upgraded and therefore on this basis a 'temporary' on site treatment plant is considered unacceptable. That there are design issues with the proposed temporary private WWTS and it is reliant on an existing watercourse and local residents provide that it goes dry during the year and relative to piped connections which currently serves the neighbouring housing estate at Moyvale. It is submitted that the proposed engineering solution to counteract the main sewerage system being at maximum capacity will create problems and cannot offer a credible dilution ration for the treated effluent when discharging.

- 7.8.7. Local Residents object to the location of the proposed on-site water/sewage plant for the development. They are concerned that it is proposed to locate this facility at the southern corner of the site, close to a local reservoir that was constructed some years ago to relieve flooding on the Moigh Road. They provide that this stream only has water in it at certain times of the year and it cannot be used as a method to pump waste water from the development. In addition, that plans which incorporate a privately operated sewerage treatment plant which discharges into a storm drain which flows directly into the River Inny will have an environmental impact and pose a pollution risk. The need for the implementation of best practice Sustainable Urban Drainage Systems, to allow for surface water drainage area is noted.
- 7.8.8. Regard is had to the *Wastewater Treatment Manual Systems for Small Communities, Business, Leisure Centres and Hotels* (1999) which sets out guidance for wastewater treatment systems for more than one house. Table 4 sets out the Recommended Minimum Distances from various sized Treatment Systems to existing developments. The maximum distance referred to is 50m to serve >41 houses. It is noted that in this case the temporary treatment plant will serve 70 houses. The First Party provide that as a 50m buffer zone is proposed by the applicants that the proposal is compliant with the EPA guidance document. They contend that the 100m distance as recommended by the appellants is unfounded.
- 7.8.9. It is noted that the proposed phasing arrangement is to accommodate a temporary sewerage treatment plant on site which will remain until such a time that the municipal plant at Ballymahon is upgraded. According to a pre-development report from Irish Water which was submitted with the application, while a definite timescale has not been set as yet this upgrade is to be c. 2024. The outfall for treated wastewater from the onsite temporary wastewater plant is to the mains sewer. Phase 1 is to be completed initially with the proposed temporary wastewater treatment plant in place and then once the Ballymahon municipal sewer is upgraded, the temporary wastewater treatment plant will be decommissioned and removed from the site, and then the proposed dwellings associated with the second phase can be completed.

## 7.9. First Party Appeal against Conditions

- 7.9.1. While the First Party accepts the Council's permission, Condition nos.6 and 17 are subject to Appeal. In this case it must be noted that as there is also a separate Third Party Appeal relative to issues concerning the development as a whole, that the proposal is being considered *de novo* rather than as an appeal solely against conditions. Therefore, the Board may decide as appropriate to amend, revise or omit the Council's conditions.

### Condition no.6

- 7.9.2. The First Party query the need for Condition no.6 and note that it is clear that the temporary wastewater treatment plant was included as part of the application description i.e. *a pumping station and temporary sewage treatment system within the site which will be removed on the upgrading of the public foul system* and was assessed as an integral part of the development. They suggest that the first paragraph be removed from Condition no.6 and that a further subsection (f) be added which would state that the wastewater treatment plant would not be taken over by Irish Water. They provide revised wording relative to such a Condition.
- 7.9.3. They also refer to the technical information sought as part of the further information request and the applicant's response by way of a detailed report by Killian Consulting Engineers. They note that the Planner's subsequent report has regard to comments from Irish Water and those of the Water Services Section and that the Council considers this response satisfactory.
- 7.9.4. The Planning Authority response to the Appeal provides that given the planning application description of the proposed development includes the provision of a temporary wastewater treatment system; and this is acceptable in principle subject to appropriate conditions with regards to bonds, maintenance and removal etc, that any subsequent grant of permission should not include a condition that requires a separate planning permission for this purpose. They therefore recommend that the wording of this condition be changed so that the wording *seek planning permission and all and any other necessary approvals required* to be omitted. Therefore, the Condition would only relate to the temporary wastewater treatment system as applied for. As submitted in the First Party response they concur with this revision.

- 7.9.5. The Council's response notes that the amounts specified in the bond conditions were estimated by the Council's Water Services Section in their report dated (17/09/20). They refer to their revised report submitted with their subsequent response and note details of amended calculations relative to discharge parameters for the temporary WWTS. The Report is based on 98 units and proposes revised standards and a suite of additional conditions relative to the temporary WWTS. The Planning Authority therefore recommend that Condition 6 be revised and that an additional condition (no.6a) be inserted in respect of the temporary WWTS and a condition no. 6(b) in respect of the Irish Water Connection Agreement. They include the wording for both of these conditions.
- 7.9.6. Taking account of the circumstances, and the description of development provided, I would consider that the revised wording of Condition no. 6 is appropriate. However, if the Board decides to permit, the wording of Condition no. 6(a) could be included as part of a more general condition as part of works relative to the installation and maintenance of the temporary WWTS to be agreed with the Planning Authority prior to the commencement of development.
- 7.9.7. It is noted that Condition 6(a) imposes greater levels of treatment in the proposed temporary WWTP than had been originally envisaged in Condition no.6 of the Council's permission. The First Party questions the Council's authority to impose these treatment parameters which they provide have not been sanctioned by Irish Water. They provide that the treatment parameters as recommended by IW are as set out in their Reports that were assessed as part of the planning application. They submit that IW will dictate the terms of connection if and when the applicant seeks to connect to the Irish Water Network.
- 7.9.8. I would refer to the Development Management Guidelines 2007. Section 7.8 relates to the inappropriateness of applying Conditions relating to other codes. *The existence of a planning condition, or its omission, will not free a developer from his or her responsibilities under other codes and it is entirely wrong to use the development management process to attempt to force a developer to apply for other some licence, approval, consent, etc.* Therefore, if the Board decides to permit, I would not recommend the inclusion of clauses relative to the obligations which are more appropriately dealt with Irish Water under separate codes.

### Condition no.17

- 7.9.9. Condition nos. 16 and 17 concern provision for development bonds. The First Party appeal only concerns condition no.17. They provide that there have no argument with the level of bond associated with this condition but consider that as it is currently worded it is erroneous and lacks clarity. They recommend alternative wording and ask that the Board amend this condition. They note Third Party concerns and note the ample bonds provided in condition nos. 16 and 17 of the Council's decision would suffice against any abandonment of the temporary WWTP. They provide that the effluent would still go to the main sewer and ultimately to the Ballymahon WWTP.
- 7.9.10. The Council's response notes that the Planning Authority included two conditions no.16 and no.17 requiring the lodgement of a cash deposit, a bond of an Insurance Company or security. Condition no. 16 (€150,000) was specifically included for the provision and satisfactory completion and maintenance of the on-site wastewater treatment system; and Condition no. 17 (€60,000) for the decommissioning of the on-site WWTS once the Ballymahon wastewater treatment plant was upgraded. These bonds seek to reduce and minimise the financial burden on the Council's Water Services section and to ensure the provision of a suitable and satisfactory temporary WWTS for the development site.
- 7.9.11. They note that the identified amounts specified in the Conditions were estimated by the Council's Water Services Section during the review of the F.I. They have now revised their Report as a result of this Planning Appeal and included as Appendix 2 (04/11/20), provides amended and revised upwards calculations for the Bond amounts in respect to those stated in Condition nos. 16 (€450,000) and 17(€100,000). If the Board decide to grant permission they recommend that these two conditions be retained and the value of the bonds increased. This is to ensure that the temporary WWTS is provided, completed and maintained; and then once not required decommissioned and removed to the satisfaction of the Planning Authority.
- 7.9.12. The First Party response is concerned about the increase in the value of these bonds, over and above those included in the Council's condition nos. 16 and 17. While they are not opposed to the values as originally specified, they are concerned with the level of increase and that it has been stated in Engineering Reports submitted subsequent to the date of the Council's permission. They also provide

that Irish Water are the authority when it comes to the provision of water and wastewater and not Longford County Council. They submit that if the Board are mindful to grant permission for the said development and imposes these much increased revised bonds, that the development will be unable to proceed.

7.9.13. The First Party provide that the proposed development poses no public health risk and urge the Board to uphold the decision of the Council and to grant permission for the development and to amend Condition nos.6 and 17 as per their First Party appeal. Therefore, the applicant would not be requested to seek an additional permission for the on-site WWTP which has already been applied for as part of the planning application or to pay an increased bond contribution. If the Board are mindful to permit, I would recommend that Condition no.6 be revised and more general bond conditions to be agreed with the Council be included.

#### 7.10. **Precedent**

7.10.1. The First Party response to the Council's response relative to the increase in the value of the bonds is of note. They noted that the applicant was advised at pre-planning stage by IW that an onsite temporary wastewater treatment plant would be required. They refer to a recent application relative to the Construction of 37 houses in Ballymahon which was submitted subsequent to their application, with direct connection to the public sewer. They provide that this illustrates inconsistencies between approaches by both Irish Water and the Council. They also note that there appeared to be no reports from the Water Services Department of the Council on that file.

7.10.2. The description of development included connection to the existing foul sewer, surface water and watermain network currently serving the existing 'Dúnáras' housing estate. Condition nos.12 and 13 of the Board's permission (Ref. ABP-307880-20) relate to water supply and drainage arrangements to comply with the requirements of the planning authority and to connection agreement with Irish Water. Condition no.21 provides provision for a cash deposit, bond or other security. (A copy of the Inspector's Report and the Board decision is included as an Appendix to this Report).

7.10.3. However, each case presents its own issues and represents a different scenario. As noted in the Inspector's Report, in view of previous planning history drainage was not presented as a main issue in the assessment of that application. It is noted that that site is more centrally located closer to the town centre, as opposed to the current application which is for a greater number of units on a greenfield site at the edge of town. Details submitted with the current proposal including from Irish Water, provide that the Ballymahon Municipal Plant is at capacity and is pending an upgrade. Until such time as these works are completed a temporary wastewater treatment plant is necessary to service the current proposal.

### 7.11. **Prematurity**

7.11.1. Regard is had to the Irish Water Investment Plan (2020 to 2024) Updated Investment Plan for CRU Review. Appendix 4 provides a list of Projects and Programmes. This includes: The projects and programmes listed are expected to be either commenced, progressed or completed during the 2020-2024 period. This list is continuously being refined and is subject to budget, technical and environmental constraints, as well as statutory approvals. This includes note of the Ballymahon WWTP in Co. Longford. The Primary Asset Category is described as - Wastewater Above Ground and the Project Description - Upgrade of WWTP to protect environment and quality of receiving waters to facilitate growth.

7.11.2. The First Party notes that while it is accepted that there is no definite date for the upgrade, Irish Water has accepted a scenario where the applicant constructs a temporary on site WWTP and maintains its life until the municipal plant is upgraded to allow untreated water into same. Only then will the onsite WWTP be decommissioned. They state that there is no discharge to ground or surface water. Wastewater is to be treated to specific parameters as set out by Irish Water and then this treated wastewater goes to the municipal plant by way of the existing main sewer.

7.11.3. As noted, there is concern that there is a level of uncertainty regarding the time period for the upgrade of the Ballymahon Municipal Plant. In addition, relative to the private nature of the system in that IW will not be taking the temporary treatment plant in charge. The Third Party also refer to the history of unfinished housing



estates and where private developers have abandoned their responsibility for maintenance and completion of such estates. Consideration, as to what happens if the temporary WWTP were to be abandoned which would result in environmental degradation and nuisance to adjacent properties. They are concerned that the proposal to facilitate the scale of the proposed residential development using a temporary on-site wastewater treatment system without a definite time period agreed with Irish Water for completion and connection to the upgraded Ballymahon Municipal system is therefore unrealistic and could lead to pollution and present a public health risk. Due to the potential public health consequences, they urge the Board to deem the proposed development premature pending the expansion of the Ballymahon WWTP.

- 7.11.4. The First Party response submits that there are ample bonds imposed by Condition nos. 16 and 17 of the Council's permission to cover for any issues prior to the upgrade of the Ballymahon Municipal WWTP and the decommissioning of the plant. They contend that these bonds (as per the Council's permission) would suffice in the event of a scenario where the developer abandons the site. They also suggest that in the case the treatment plant were abandoned that the effluent would still go to the main sewer and ultimately to the Ballymahon Treatment Plant. Therefore, that there would be no impact if such a case were to occur.
- 7.11.5. The Council's response also acknowledges the capacity issues of the Ballymahon Public WWTP and the potential constraints that this places, upon the projected settlement as detailed in the Draft Longford CDP 2021-2027 and the core strategy. They note the report of Irish Water and the recommendation to support this application through the provision of a temporary WWTS in order to enable and facilitate the growth of the settlement in the interim period until the infrastructure upgrade of the Ballymahon WWTP is implemented.
- 7.11.6. However, having regard to all the issues presented, including the revised details/parameters in the wastewater report submitted by the Planning Authority in response to the First Party Appeal and relative to the need outlined for increased value of bonds and the applicant's response I would consider that there are a number of outstanding issues relative to drainage which need to be resolved. I do not consider that sufficient information has been submitted to demonstrate that the proposed temporary WWTP is suitable for the site context in the interests of the

environment and public health. I do not consider adequate information has been submitted to permit a full assessment of the proposed development. Also, in particular the scale of works and timescale required to upgrade the Ballymahon Municipal WWTP. I would have some concerns that this proposal is premature pending the upgrade of the capacity of the Ballymahon Municipal Treatment Plant. The Board may wish to refuse on this basis.

## 7.12. Flood Risk

- 7.12.1. Local residents have expressed concern about flooding in the area and note previous flood events, including in 2009 on the Moigh Road. They provide that there are designated flood plains and turloughs in the vicinity of the proposed development. Photographs have been included in the Submissions made showing flooding in the area.
- 7.12.2. There is concern that the development intends to discharge the proposed storm water runoff for the entire site into this adjoining watercourse/pipe that the Council have previously installed. That neither the pipe nor its design will be able to accommodate the proposed increase in water volume and will potentially result in the backing up/blocking of the existing pipe thus leading to properties along this section of the Moigh Road being adversely affected by flooding.
- 7.12.3. The First Party response notes that the flooding issue would appear to have been resolved since the Council constructed a drainage pipe along the inside boundary of an adjacent field. This includes that there were no flood events recorded since (even during December 2010 when the country underwent a 1 in 100 year rainfall event).
- 7.12.4. As shown on the Ballymahon Zoning & Flood Map (Appendix 1D of the CDP refers) the site is outside of Indicative Flood Risk Zones A & B. Reference is had to *The Planning System and Flood Risk Planning Guidelines*. It is noted that the site is within Flood Zone C where there is a low probability of flooding and residential which is defined as highly vulnerable is considered appropriate. Therefore, the Justification Test does not apply.
- 7.12.5. Reference is had to the need to implement SuDS relative to the disposal of surface water within the overall design of the scheme. Details include regard to the ample attenuation tank and the regulation of flow and the use of a hydrobrake and

hydrocarbon interceptor (Klargester Unit) before outfall to an existing watercourse located on the southern corner of the proposed development site. It is noted that the attenuation tank will have the ability to regulate flow equal to that which would occur from a greenfield site and potentially less than that which would otherwise occur. In relation to the details submitted relative to surface and storm water drainage and attenuation and use of SuDS proposed, I do not consider flooding to be a significant issue on this site.

### **7.13. Screening for Appropriate Assessment**

7.13.1. A Stage 1 AA Screening Report has been carried out by an Environmental Consultant and submitted with the application. This provides details of the habitats on site which is predominantly improved agricultural grassland. It notes the presence of two notable species within 1km of the site, the badger and the smooth newt. Also, that there are no habitats on site to support these two species. It is noted that the River Inny and its riparian habitats are located approx. 1km south of the site. There are no drains or streams within or immediately adjacent to the application site. There are some drains south of the site, including the Drinan Stream, which is c. 69m south of the application site and flows towards the River Inny. The EPA has defined the ecological status of the Drinan Stream and the River Inny at points upstream and downstream of Ballymahon as moderate. This is unsatisfactory under the Water Framework Directive where all waterbodies are to achieve good status by 2021.

7.13.2. As noted on Table 1 there are five Natura 2000 designated sites within 15kms of the application site i.e:

- Lough Ree SAC (site code 000440) – 4.3kms south west,
- Lough Ree SPA (site code 004064) – 4.3kms south west,
- Ballymore Fen SAC (site code 002313) – 11.8kms south east,
- Mount Jessop Bog SAC - 11.9km to the north
- Fortwilliam Turlough SAC – 14km north west

Details are given of their qualifying interests and the sites conservation objectives and it provided relative to all of these:

*Potential impacts are unlikely as there are no direct hydrological connections between the application site and the Natura 2000 site.*

- 7.13.3. Section 3.4 provides an Impact Assessment and notes that there are no source - pathway-receptor linkages between the application site and any designated area and this will minimise the potential for any impacts upon designated sites arising from emissions to surface waters. It is noted that wastewater from the development will be treated initially with an on-site WWTP, prior to discharge into the public sewer for further treatment in the public agglomeration. Also, that the plant will be installed and certified by a suitably qualified engineer. In addition, that wastewater from the development will be treated until there is sufficient capacity in the Irish Water Treatment Plant in Ballymahon to treat the waste from the development without pre-treatment. When upgraded the existing on-site treatment plant will then decommissioned. They provide that treatment processes will not lead to any impact on designated sites.
- 7.13.4. Section 3.5 provides a Finding of No Significant Effects. They conclude that either individually or in combination with other plans or projects that the proposal will have no impacts upon Natura 2000 sites and that there is no need to proceed to Stage II of the AA process.
- 7.13.5. An AA Screening Statement has been carried out by the Council. This notes that the site is within 5km of Lough Ree SPA. This includes habitat of otters. They note that the proposed residential development (original 96 units, revised was reduced to 82 units) includes a temporary WWTS for the treatment of wastewater. Also, that waste following treatment on site will be discharged to the public sewer. They conclude that there are no potential significant affects/AA is not required.
- 7.13.6. On the basis of the information contained on file which I consider adequate in order to issue a screening determination that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on the Lough Ree SAC or Lough Ree SPA Natura 2000 sites or any other European sites in view of the conservation objectives and a Stage 2 Appropriate Assessment (and a submission of an NIS) is not therefore required.

## 8.0 Recommendation

8.1. I recommend that permission be refused for the reasons and considerations below.

## 9.0 Reasons and Considerations

1. The Board considered that, having regard to its overall design, scale, layout and low density, the proposed development fails to provide for adequate variety of house/unit type to cater for inclusivity and provides for a poor distribution of public open space and permeability particularly in the eastern/south eastern part of the site. It is, therefore, considered that the proposed development would provide for a poor living environment for future residents and would not comply with the criteria in the Urban Design Manual A best practice guide 2009 or Section 6.11(b) of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009, relative to density for edge of centre sites. In addition, the proposal would not facilitate connectivity or permeability for pedestrians and cyclists as per the Design Manual for Urban Roads and Streets 2019. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that insufficient information has been submitted to enable the Board to make a decision as to the suitability of the proposed temporary wastewater treatment system for the subject site and to ensure that the proposal would not lead to environmental pollution or be prejudicial to public health. The proposed development would be premature pending the upgrade of the Ballymahon Municipal Wastewater Treatment Plant to serve the proposed development and to facilitate the orderly expansion of the town. It would therefore be contrary to the proper planning and sustainable development of the area.

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Angela Brereton  
Planning Inspector

10<sup>th</sup> of February 2021