



An
Bord
Pleanála

Inspector's Report ABP-309475-21

Development	Construction of 16 residential units
Location	Springfield Cottages, Mullingar, Co. Westmeath.
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	206141
Applicant(s)	Liam Leech.
Type of Application	Permission.
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Liam and Paula Martin & Geraldine Keane.
Observer(s)	None.
Date of Site Inspection	7 th May 2021.
Inspector	Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of 0.23ha, consists of a segregated and enclosed yard, to the rear of 9 and 11 Springfield Cottages. The site would previously have formed part of the rear gardens of 9 and 11 Springfield Cottages. It is laid to hardstanding and contains a number of storage sheds and a partially built structure.
- 1.2. The site is at the eastern end of Mullingar, accessed via Delvin Road and is accessed via a shared access, which also provides access to the rear of a commercial premises on Delvin Road.
- 1.3. Springfield Cottages is a relatively narrow street but it has footpaths on both sides, providing links to the town centre and to a range of service and amenities. The houses on Springfield Cottages date from the early 1900s, are two storey semi-detached, with a projecting gable fronted porch onto the street.

2.0 Proposed Development

- 2.1. The application was lodged with the Planning Authority on 10th June 2020, with further information submitted on 18th December 2020, following a request for further information dated 7th August 2020. Revised public notices were also submitted on 18th December 2020.
- 2.2. The proposed development described in the public notices entailed: -
 - Demolition of existing sheds
 - Construction of a 16-unit, part 3-storey apartment building, consisting of: -
 - 9 No. 1-bed units and
 - 7 No. 2-bed units.
 - The development also included public and private open space, car and bicycle parking, boundary treatments, bin storage, landscaping and resurfacing of the existing site entrance.
- 2.3. At the further information stage, the proposal was amended, with 4 no. units omitted and the overall height of the proposed apartment building was reduced to 2-storeys.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission on 22nd January 2021, subject to 14 planning conditions.
- Condition No. 2 required the developer to submit revised plans to address potential detrimental impacts on the residential amenity of adjoining properties due to overlooking.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports dated 6th August 2020 and 20th January 2021, both of which recommended that permission should be refused.
- 3.2.2. The first report outlined the existing residential zoning which applies to the lands, under which the development was acceptable, and the balance which needs to be struck between the need to provide residential infill and the reasonable protection of the amenities. Concerns were expressed regarding overbearing and overlooking impacts, together with visual impact, given the overall height proposed. Concerns were also expressed regarding the proposed residential density, which was considered to constitute overdevelopment. Regarding private open space, the report outlined that a number of the units fell below the requirements of the Mullingar Local Area Plan and the quality and quantum of proposed public open space were questioned. The report recommended that permission should be refused for 2 reasons, related to (1) over-intensification of the use of the site and visual impact, and (2) impacts on residential amenity by reason of overlooking, loss sunlight and loss of privacy.
- 3.2.3. Subsequent to the report, a memorandum dated 6th August 2020 directed that a request for further information should be issued, seeking further information in relation to the following aspects of the development: -
- (1) Revised plans were sought to address concerns regarding the proposed layout and density,

- (2) Revised plans were sought to address concerns regarding overlooking, loss of sunlight and loss of privacy at 9 and 11 Springfield Cottages,
- (3) Revised plans were sought to address concerns regarding the visual impact of the development,
- (4) Revised proposals were sought in order to ensure compliance with the core principles of the *Guidelines on Sustainable Residential Development in Urban Areas* (2009) and the *Urban Design Manual*,
- (5) The applicant was requested to demonstrate compliance with the private open space requirements of the Mullingar Local Area Plan.

3.2.4. The second Planner's Report followed receipt of the additional information response and followed the submission of revised public notices. The report summarised and responded to the responses to each of the further information request items and concluded that the revised proposal would result in overlooking of adjoining properties and would be contrary to Policy P-SR13 of the LAP. It also concluded that the proposed layout would compromise the future development of adjoining backlands. It was recommended that permission should be refused for 1 reason, related to overlooking of adjacent properties and depreciation of property values in the vicinity.

3.2.5. Subsequent to the report, a direction was issued by the Director of Services, dated 20th January 2021, which directed that permission should be granted for the development and that a condition should be incorporated which requires the developer to submit revised plans to address potential detrimental impacts on the residential amenity of adjoining properties due to overlooking.

3.2.6. Other Technical Reports

Housing memorandum dated 26th June 2020, which advised that a standard Part V condition should be attached, should permission be granted.

District Engineer reports dated 23rd July 2020 and 5th January 2021. The first report recommended that further information should be sought regarding a number of aspects of the development. It was recommended that the applicant should (1) demonstrate the necessary permissions to access the site as proposed, (2) confirm Irish Water consent to connect to foul and surface water sewers, (3) provide a

revised site layout incorporating a parking layout which accords with development plan requirements, (4) provide a public lighting plan. The second report followed the further information response and recommended a number of conditions, should permission be granted.

3.3. Prescribed Bodies

- 3.3.1. Irish Water submission dated 26th June 2020, which requested that additional information should be provided, where records indicated that water/wastewater infrastructure within the site which may be impacted by the development. It was requested that the applicant should submit a pre-connection enquiry, to determine the feasibility of connection to the public networks.
- 3.3.2. Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media submission dated 17th July 2020 which advised that the development has the potential to cause an adverse effect on a significant area of the habitats and local populations of bats, which are listed under the Habitats Directive and which are protected under the Wildlife Acts 1976-2018, and would cause an adverse effect on a significant population of wild birds, which are protected under the Wildlife Acts. The submission advised that such impacts would be caused by site clearance, disturbance and habitat fragmentation and recommended that, in order to mitigate such impacts, hedgerow/tree/shrub removal should take place outside of the breeding season and replacement planting and landscaping should be provided, to compensate for habitat loss.

3.4. Third Party Observations

- 3.4.1. A number of third party observations were received, the issues raised within which can be summarised as follows: -
 - The proposed entrance, which contains water mains and storm water services, is on a private right of way, which is part-owned by third parties. The right of way is used as a service access to a commercial premises on Delvin Road.
 - A part-owner advised that they had not been consulted in relation to the development. It was advised that legal advice was being sought in relation to the usage of the right of way.

- The development was considered out of character with existing development in the area.
- The development would overlook and reduce privacy at adjacent properties, due to its backland location.
- Sightlines were considered inadequate at the site entrance and would create a traffic hazard.

3.4.2. Further observations were received following the submission of revised public notices, the issues raised within which can be summarised as follows:

- The proposed entrance, which contains water mains and storm water services, is on a private right of way, which is part-owned by third parties and for which consent to the proposed works had not been given. The right of way is used as a service access to a commercial premises on Delvin Road.
- The site entrance was not intended to provide access to future developments.
- The development would overlook and reduce privacy at adjacent properties, due to its backland location.
- The proposed entrance was considered to be of inadequate width.

4.0 Planning History

4.1. I encountered the following recent records in my review of the site's planning history:

- 095069 - Permission refused on 9th June 2009 for 4 houses. Permission was refused for 3 reasons, related to concerns over sightlines from the site entrance, concerns regarding the width of the proposed access and impacts on neighbouring properties.
- 055278 - Permission refused on 7th December 2005 for 2 houses and 2 apartments. Permission was refused for 2 reasons, related to concerns over sightlines from the site entrance.
- 045558 - Permission refused on 17th January 2005 for 2 houses and 2 apartments. Permission was refused for 2 reasons, related to the quality and form of development.

Relevant Nearby Planning History

176081 - (ABP Ref. PL25M.249059) *Lands to the rear of 14 and 16 Springfield Cottages*: Permission granted on 13th February 2018 for a development of 20 houses. The following conditions are of relevance: -

Condition 2 required that units 1, 2, 8 and 9 shall be omitted and the space released shall be incorporated into communal open space.

Condition 5 required that windows on the north-west elevation shall be fitted with obscure glazing.

5.0 Policy Context

5.1. Ministerial Guidelines

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

5.1.1. The Guidelines set out key planning principles to guide the preparation and assessment of planning applications for residential development in urban areas. Of relevance to the current appeal, the Guidelines promote, in relation to the design and layout of residential developments in Cities and Larger Towns, the achievement of an efficient use of land appropriate to its context, while avoiding the problems of over-development. Whilst promoting higher densities, the Guidelines identify a number of safeguards, as follows:

- *'compliance with the policies and standards of public and private open space adopted by development plans;*
- *avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;*
- *good internal space standards of development;*
- *conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;*
- *recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and*

- *compliance with plot ratio and site coverage standards adopted in development plans.'*

Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018)

- 5.1.2. The Guidelines set out standards for apartment developments, with the aim of ensuring that such developments are an attractive and desirable housing option in the future. Standards provided within the Guidelines include: the mix of units to be provided, minimum size thresholds for 1-bed, 2-bed and 3-bed units, the orientation and internal layout of units and private open space provision.

5.2. Development Plan

- 5.2.1. The site is zoned 'Existing Residential' under the Mullingar Local Area Plan 2014-2020, with an objective '*To provide for residential development, associated services and to protect and improve residential amenity.'*

- 5.2.2. Section 9.9.3 is relevant to the development of backland sites. It states: -

'In residential areas where the character is established by its density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of the established character and the need to provide residential infill... subject to reasonable conformity with these, developments on infill sites, particularly those in excess of 0.5ha, should be capable of proposing their own density and character.'

- 5.2.3. There are a number of relevant policies, as follows: -

'P-SR2 To encourage and promote the development of underutilised infill and backland development in the town, subject to Development Management criteria being met.

P-RET4 To secure the continued consolidation of Mullingar Town Centre through progressing the development of the Blackhall area and the regeneration of under-utilised, backland and brown field areas in the Town Centre area, subject to the protection of the architectural and archaeological heritage of the town.

P-RET15 To secure the continued consolidation of Mullingar Town Centre through progressing the regeneration of backland and brown field areas in the town centre.'

5.3. Natural Heritage Designations

- 5.3.1. The subject site is not located within or adjacent to any designated European Site.

5.4. EIA Screening

- 5.4.1. The proposed development falls within the categories of an '*Extractive Industry*' and '*Infrastructural Projects*', under Schedule 5, Part 2 of the Planning and Development Regulations 2001-2020, where mandatory EIA is required in the following circumstances:

10(b) (i) Construction of more than 500 dwelling units.

(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

- 5.4.2. The proposal is for 12 residential units on a site of 0.23ha. The proposed development falls below the development threshold and mandatory EIA is therefore not required.
- 5.4.3. In the case of sub-threshold development, where the subject site comprises zoned lands within the town, served by public infrastructure. Where the site is not located in or adjacent to any environmentally designated sites, I consider the development would not be likely to have significant effects on the environment. An environmental impact assessment report for the proposed development is therefore not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A joint third party appeal has been submitted and the grounds of appeal can be summarised as follows:-

- The access road is registered as tenants in common between three parties, including the applicant and one of the appellants. The applicant does not have permission from the joint-owner for use of the proposed access route. The proposed resurfacing of the access road constitutes development and in the absence of the appellant's consent permission should be refused on the grounds that the applicant does not have unfettered legal entitlement to the access road. A letter from NJ Downes & Co Solicitors is enclosed with the appeal in relation to the issue.
- The access road is utilised as a service access for a commercial business on Delvin Road. Deliveries ordinarily take place in the morning, where they would conflict with residential traffic from the proposed development. The proposed residential development is incompatible, due to this conflict.
- The development does not integrate well with its surroundings. It reduces the amenity space for Nos. 9 & 11 Springfield Cottages and provides a building which is too large for the site. A visual impact statement should be prepared, to demonstrate the integration of the development with the surrounding area.
- A number of the proposed units incorporate inadequate private open space, in accordance with the local area plan, and whilst they do accord with the 2020 apartment guidelines, many are contained within the footprint of the building, which compromises the apartment layout. The provision of projecting balconies would increase the level of overlooking of adjacent properties. The quality of some private open space areas is also questioned.
- The majority of the proposed public open space to the southwest and southeast of the building appears to be left over, after the building has been positioned. It would not function as meaningful public open space. Omission of such space reduces the quantum of public open space to 13.6%, which is below the local area plan requirement.
- A number of first floor windows on the east elevation of the building would be substantially less than 22m from opposing first floor windows, with the result that the residential amenity of adjacent properties would be compromised. Permission should be refused due to the level of overlooking arising.

- The proposed development does not fully comply with the residential zoning objective, which seeks to improve the quality of existing residential areas and protect their amenities. The development does nothing to improve the quality of the existing residential area. Concerns expressed by the Planning Authority in relation to negative impacts are endorsed.
- The proposed development is not an infill development. The site consists of gardens and amenity spaces that are ancillary to houses in the area and it borders other gardens, with the development squeezed into the site. Infill development is supported by the local area plan, but this is subject to the proviso of development standards being met. The grounds of appeal have set out that the development incorporates inadequate public and private open spaces.
- The development, by virtue of its position, height, massing and scale would have a significant impact on the residential amenities of residents at Springfield Cottages and Ginnell Terrace. 9 & 11 Springfield Cottages form part of a group of cottages listed on the National Inventory of Architectural Heritage (NIAH) and Ginnell Terrace is designated as an Architectural Conservation Area. The development will not enhance the historical character or level of amenity of the area.
- The applicant has not demonstrated compliance with criteria set out within the Urban Design Manual and it is contended that the development could be improved if it were reduced in scale and responded more sensitively to its context by not overlooking surrounding amenity space.
- The Planning Officer recommended that permission should be refused, but this was rejected by the Director of Services. The direction to grant permission is questioned, where it is contended that the site is not brownfield. The development seeks to maximise density on a restricted site, without due regard to existing residents. It is argued that the direction to grant permission is flawed.
- Sightlines at the access to the site are inadequate and would compromise the safety of elderly pedestrians. The access itself is also considered inadequate.
- The development comprises overdevelopment of the site and would set a precedent for other disorderly developments.

- The development would compromise the development of other sites in the area.
- The development is contrary to policies within the local area plan.
- The proposed parking layout is considered inadequate and will increase noise levels at adjacent properties.
- The Board is requested to refuse permission for the proposed development.

6.2. Applicant Response

- 6.2.1. A first party response has been submitted on behalf of the applicant by The Planning Partnership, dated 22nd March 2021, which responds to the third party appeal and also justifies the proposed development. The contents of the submission can be summarised as follows: -

The Proposed Development

- The proposed development accords with the policies and objectives of the county development plan and Mullingar local area plan and also accords with national planning policy.
- The proposed design and layout respect the access rights of commercial premises fronting Delvin Road and enhance and widen the currently narrow access, improving accessibility. The development leaves unfettered access to other lands.
- The development will make efficient use of underutilised urban lands and increases residential density proximate to a designated cycle/walking route which links to the town centre.
- The proposed layout and design adhere to advice within the *Urban Design Manual, Sustainable Residential Development in Urban Areas* and the *Design Manual for Urban Roads and Streets*.
- Regarding 9 & 11 Springfield Cottages, which are listed on the NIAH, the existing layout which incorporates long gardens was reflective of social thinking at the time of construction. The proposed development reflects the shift in thinking, by providing for apartment development and increasing density on the site, in line with local and national planning policy.

- The proposed layout is strongly influenced by the need to protect the amenities of adjacent property. The development does not negatively impact on adjacent residential amenity.
- The apartments have been positioned to provide infill development without negatively impacting on cultural heritage and will provide a positive addition to the local housing stock.
- The appeal is an opportunity to make a timely decision for the delivery of housing and prioritisation should be given to the principal objectives of Rebuilding Ireland. The applicant is in discussions with Approved Housing Bodies for the supply of 1 and 2-bed housing in the town.
- On foot of the appeal, additional supporting assessment has been undertaken, with the following provided as part of the appeal response: -
 - Housing Quality Assessment
 - Building Study and Modelling Exercise
 - Landscape and Visual Impact Assessment
 - Design Response to Condition 2 of the Planning Authority's decision
- The submission discusses and summarises the development, in the context of the county development plan 2014-2020, draft county development plan 2021-2027, Mullingar local area plan 2014-2020, national planning policy and ministerial guidelines.

Response to Appeal

- Notwithstanding the legal standing of the appellant in relation to the access, where the common entitlement of access is not proposed to be fettered by the applicant, the Board may determine the application. The applicant is satisfied that they have the right to execute the permission, should permission be granted.
- Regarding concerns over the compatibility of residential use of the site access, the access will be enhanced by being widened and with a segregated pedestrian route.
- In relation to the scale of development and concerns over its impact on the character of the area, a modelling exercise has been undertaken, which

demonstrates that the development can integrate and will not prejudice built heritage assets in the area.

- Public and private amenity space is provided in accordance with the requirements of the 2020 apartment guidelines.
- In respect of overlooking, the development does not present direct window-to-window constraints, with reference to the 22m separation distance identified within the development plan.
- It is acknowledged that an element of overlooking of private amenity space from first floor apartments will arise but this is a common occurrence for residential development in urban areas. It is also contended that the majority of first floor windows are either set back and/or do not serve principal habitable rooms, with principal window opens overlooking the courtyard area.
- It is noted that the Planning Authority attached a condition (No. 2) intended to address potential overlooking impacts. Should it be considered necessary by the Board, there are a number of design responses which can be employed.
- Regarding concerns over the scale of development proposed, it is contended that the proposal accords with the development plan and 2020 apartment guidelines requirements. Favourable consideration should also be given to policy supports for making best use of underutilised lands for the delivery of housing.
- The applicant does not dispute the appellants' argument that the development is not infill but it is seen that the over-riding intention is to provide suitably scaled residential development, meeting all development management standards. This is seen as a recognised approach, with reference to both ministerial guidelines and local planning policy objectives. It is contended that infill development is achievable, including on large plots to the rear of existing houses, where a suitable balance is struck between delivering a high quality development and protecting the character and amenities of the area.
- Regarding concerns over impact on the adjacent ACA and 9 and 11 Springfield Cottages, the applicant is cognisant of previous decisions made by the Board, which retained cottages and encouraged densification via the provision of apartments to the rear. The development does not extend into the designated

ACA and it is contended that the architectural heritage of the area will be enhanced by better utilisation of the lands.

- The applicant has provided an assessment of the criteria contained within the Urban Design Manual, demonstrating that the development is a sustainable use of urban lands, in an advantageous location with linkages to local services and transportation routes.
- Regarding concerns that the Planning Authority direction to grant permission did not adequately recognise development management standards, architectural heritage and impacts on the amenity of adjacent residential properties, it is contended that there are multiple factors which enable the Board to positively consider the proposal.

6.3. Planning Authority Response

6.3.1. No response received.

6.4. Observations

6.4.1. None received.

6.5. Further Submissions

6.5.1. A further submission was received from the appellants on 27th April 2021, in response to the first party submission. The issues raised within the submission can be summarised as follows: -

- The consent of the appellant should be sought, as the owner of an undivided share of the access route. It is clear that the applicant does not have sufficient legal interest.
- As and when the site is to be developed, any prospective purchaser will require the appellant's formal legal consent, by right or way or wayleave, in respect of his fractional ownership of the access route.
- There are ongoing concerns regarding conflict between residential use of the access, in conjunction with commercial traffic. Proposed widening of the access and provision of a footpath will not remove the potential for conflict.

- Houses at Springfield Cottages are storey and a half and are smaller in scale than the proposed development.
- Private open space provided to a number of apartments and public open space proposals continue to be questioned.
- There is potential for overlooking of adjacent properties and the applicant's proposals for compliance with condition No. 2 of the Planning Authority's decision are seen as an acknowledgement of the issue.
- The proposed development is not appropriate in scale and remains in conflict with the zoning objective.
- The development is not infill, it is the development of a large plot/backland, associated with Springfield Cottages, which are listed on the NIAH. The development would significantly detract from the character and heritage of the Cottages and the local area.
- References to the permission granted under ABP Ref. PL25M.249059 are considered irrelevant and are not directly comparable.
- It is acknowledged that the applicant has demonstrated compliance with the Urban Design Manual.
- The applicant has not engaged with issues raised regarding the Planning Authority's decision.
- It is considered that many of the aspects considered within the landscape and visual impact assessment are so distant as to render the impact low or not significant. Aspects of the LVIA are also rejected.

7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the appeal, the main planning issues in the assessment of the proposed development are as follows:

- Principle of development;
- Site ownership;
- Residential amenity;

- Impact on the character of the area and neighbouring properties;
- Road Safety, access and parking;
- Other Issues;
- Appropriate Assessment.

7.2. Principle of Development

- 7.2.1. The proposed development is consistent with the 'Existing Residential' zoning which applies under the Mullingar Local Area Plan 2014-2020, under which residential development is permitted in principle.
- 7.2.2. Regarding concerns over the nature of the development, I note that there is policy support for this type of development within the local area plan, with reference to Policy P-SR2, which promotes the development of underutilised infill and backland plots. I am satisfied that the development is in accordance with local area plan policy supports, subject to consideration of key planning considerations.

7.3. Site Ownership

- 7.3.1. The grounds of appeal outline that the site access is registered as tenants in common between three parties, including the applicant and one of the appellants, and that the applicant does not have permission from the joint-owner for use of the proposed access route.
- 7.3.2. The applicant has confirmed the shared ownership of the access but has asserted, via a letter from Kelly Caulfield Shaw Solicitors, that the consent of the other owners is not required for the purposes of the planning application, in circumstances where no development works are proposed. The letter acknowledges that the access would be resurfaced, but states that this does not comprise development works.
- 7.3.3. The existing site access is not included within the red line application site boundary or blue land applicant landholding boundary.
- 7.3.4. Section 5.13 of the *Development Management Guidelines* (DOEHLG, 2007) provides detailed guidance on the issue of land ownership disputes within planning applications, outlining that the planning system is not appropriate for resolving land disputes and that these are ultimately matters for the Courts. Reference is made to Section 34(13) of the Act, which outlines that a person is not entitled solely by

reason of a permission to carry out any development. Further, the Guidelines advise that permission should only be refused on the basis of land ownership where it is clear that the applicant does not have sufficient legal title. From the information available to me, it has not been clearly demonstrated that the applicant does not have sufficient legal title and, with reference to advice within the Development Management Guidelines, it would be unreasonable to refuse permission on this basis.

- 7.3.5. However, and notwithstanding the above, I am concerned that, as the access is outside of the application site boundary, it cannot be controlled as part of a grant of planning permission. It is unclear whether the access is available to provide access to the development. The Board may wish to clarify this aspect of the development prior to a decision being made on the application.

7.4. Layout and Residential Amenity

- 7.4.1. The proposed apartment building is L-shaped and of a contemporary appearance, sited adjacent to the north-west and north-east site boundaries, with access points to individual apartments dotted across the primary 'front' elevations. A residential density of approx. 52 units per hectare is proposed, comprised of 7 No. 1-bed units and 5 No. 2-bed units (including 2 duplexes). A plant room, bin store and storage room are provided at the north end of the building. 15 parking spaces are proposed, located adjacent to the south-east and south-west site boundaries.
- 7.4.2. A Housing Quality Assessment has been provided as part of the first party appeal response, outlining compliance with the requirements of the 2020 apartment guidelines. Each unit would meet or exceed the minimum required floor area for a 1-bed or 2-bed unit and each unit would be adequately laid out internally, with reference to living area, bedroom and storage spaces. Private open space is stated to accord with the minimum requirements of the Guidelines and, in the majority of instances, is identified as being significantly in excess of the minimum requirement.
- 7.4.3. A series of public open spaces would be provided, with the primary areas consisting of a courtyard in front of the block and an open space area adjacent to the shared boundaries with 9 and 11 Springfield Cottages, which together occupy 17.2% of the site.

- 7.4.4. The proposed layout is tight, reflecting the constrained nature of the site, and I would have concerns regarding the access and parking layout in particular. I would question whether the parking area as shown would be practically usable. The parking bays themselves fall below the 2.4m standard width advised by DMURS, and the circulation area of 5m between spaces is likely to render a number of the spaces unusable. I note that the Planning Authority's initial District Engineer report on the application identified the issue and outlined that parking spaces of 5m x 2.5m should be provided, with a 6m circulation space. The report also requested a swept path analysis drawing, to demonstrate service vehicle access to the site. Should the Board be minded to grant permission for the development, I would recommend that a condition be attached requiring that the parking layout and site access shall be provided in accordance with the Planning Authority's requirements and shall incorporate DMURS recommendations.
- 7.4.5. The ground floor private amenity spaces are likely to feel enclosed, where they are contained in the majority of instances by 1.8m high block walls. They would benefit from being set away from the site boundary, to reduce the degree of enclosure, however it appears that this option may not be available, given the constrained nature of the site. On balance, and given the majority of the affected spaces are significantly larger than the minimum requirements of the 2020 apartment guidelines, the proposed private amenity spaces are acceptable. With reference to unit 1, its private amenity space abuts public open space and the application drawings indicate a dwarf wall being provided along the shared boundary. Additional measures to increase privacy within this area should be incorporated.
- 7.4.6. **Impact on the Character of the Area and Neighbouring Properties**
- 7.4.7. Springfield Cottages originally developed as a low-density residential street containing semi-detached housing set on very long plots. Numbers 9 and 11 Springfield Cottages, for example, would originally have had rear gardens of approx. 60m in depth, prior to segregation of the subject site. But the character of the street has evolved over time and a number of the large plots, including the subject site, have been sub-divided, primarily to provide housing. I note, in this respect, that permission has recently been granted for 16 units on the site of 14 and 16 Springfield Cottages, which includes backland development (ABP Ref. PL25M.249059 refers).

- 7.4.8. I have no particular concerns regarding the development of this backland plot, which would develop an underutilised plot in proximity to the town centre, which would be in keeping with the pattern of development in the vicinity and which is supported by the local area plan.
- 7.4.9. The development will be noticeable in the immediate vicinity of the site, it would be a noticeable addition to the streetscene. The building would be set back from the road and whilst the 2-storey height of the block would exceed that of the cottages, the difference in height is modest and I am satisfied that the level of separation between buildings, taken together with the contrasting modern design, ensures that the development would be read as visually and functionally separate.
- 7.4.10. The upper-most section of the building is likely to be visible in some nearby views, including from the adjacent Architectural Conservation Area at Ginnell Terrace, but I do not consider that the visual impact would be significant or undue. I note that in response to the appellants' concerns regarding visual impact, a landscape and visual impact assessment was provided as part of the applicant's appeal submission. I would agree with the broad conclusions of the assessment, that there would be a 'medium to low' impact in views within 250m of the site and 'low to negligible' in views beyond 300m.
- 7.4.11. Regarding neighbouring properties, in general terms I am satisfied that the block is adequately separated from adjacent houses and no overbearing or overshadowing issues arise.
- 7.4.12. Regarding overlooking, the proposed block design is such that each unit primarily addresses the courtyard area in front of the block but, a number of units contain first floor windows in close proximity to the site boundary, which look towards the adjacent rear gardens. I also acknowledge the Planning Authority's concern that the proposed layout is likely to impact the development of the adjacent backlands, due to the provision of multiple first floor windows in close proximity to the site boundary. Should the Board be minded to grant permission, I would recommend that a condition be attached requiring that first floor windows adjacent to the site boundaries, within units 3, 4, 9, 10 and 11, should be provided as high-level windows, a minimum of 1.8m above floor level.

7.4.13. Part of a building on adjoining lands projects into the site and it contains windows which would be overlooked from the car park and public amenity areas. The nature of the use of the building is unclear, where the application drawings only describe it as an 'existing building'. The building is not accessible from the site, but appeared to have been previously and a door opening has been blocked up. Should the Board be minded to grant permission, I would recommend a condition be attached requiring the applicant to confirm the use of this building and to provide privacy screening, as necessary.

7.5. Road Safety, Access and Parking

- 7.5.1. The application proposes to resurface and widen the site access and to reconfigure the access to 9 Springfield Cottages, by setting back the boundary wall from the road. This will allow for enhanced sightlines of c. 20m to the north-west and c.51m to the south-east. Springfield Cottages is a relatively narrow road and is subject to a reduced speed limit of 30km/h. With particular reference to the reduced speed limit and the smallscale nature of the development, I consider the proposed sightlines are acceptable and will not give rise to a traffic hazard.
- 7.5.2. The proposed vehicular crossover is itself likely to result in conflict between pedestrians and motorists, due to its width and the staggered nature of the public footpath in the area. The Design Manual for Urban Roads and Streets outlines that the design of vehicle crossovers from streets should '*clearly indicate that pedestrians and cyclists have priority over vehicles. There should be no change in level to the pedestrian footway and no use of asphalt (which would incorrectly indicate vehicular priority across a footpath).*' Should the Board be minded to grant permission, I would recommend that a condition be attached, requiring that the vehicular crossover and site access should be redesigned to incorporate DMURS principles.
- 7.5.3. Regarding resurfacing of the site access, I note the claim within the grounds of appeal that such works constitute development. As the site access is outside of the red line application site boundary and, the proposed resurfacing works do not form part of the development under consideration. The question is therefore a matter for the Planning Authority, if and when the situation arises, under planning enforcement powers.

- 7.5.4. Regarding parking, I have previously outlined concerns that the proposed layout is likely to result in a number of spaces being practically unusable. Should the Board be minded to grant permission, I would recommend that a condition be attached, requiring that car parking spaces shall be provided in accordance with the Planning Authority's requirements.
- 7.5.5. In respect of the ongoing commercial use of the site access, I am satisfied that, subject to adherence to DMURS advice in respect of the design and layout of the crossover and site access, the proposed development will not give rise to a traffic hazard.

7.6. Other Issues

- 7.6.1. The Department of Culture, Heritage and the Gaeltacht submission on the application commented that the development would negatively impact on bats and birds due to habitat loss. No ecology assessment was provided with the application, so it is not clear whether the site contains bats. I note that the Department's submission outlined suggested mitigation, in the form of (a) ensuring that site clearance takes place outside of the breeding season (1st March – 31st August) and (b) replacement planting and landscaping. Should the Board be minded to grant permission, I would recommend a condition be attached requiring the implementation of the suggested mitigation.

7.7. Appropriate Assessment

- 7.7.1. The subject site is not within or adjacent to of any Natura 2000 site, the nearest designated sites being: -
- Lough Owel SPA (Site Code 004047) and SAC (Site Code 000688), 4km north-west,
 - Scragh Bog SAC (Site Code 000692), 5.5km north,
 - Wooddown Bog SAC (Site Code 002205), 3.8m north-east,
 - Lough Ennell SAC (Site Code 000685) and SPA (Site Code 004044), 4km south.
- 7.7.2. The Royal Canal proposed Natural Heritage Area (pNHA) (Site Code 002103) is also located 120m south.

- 7.7.3. There is no hydrological connection between the application site and the Natura 2000 sites. There is therefore no pathway for discharges or pollutants to be transferred from the development to any of these sites.
- 7.7.4. In the case of the Royal Canal pNHA, it is separated from the site by housing along both Springfield Cottages and Delvin Road and I am satisfied that potential overland pollutants would be very unlikely discharge into the pNHA, should such a situation arise on the site.
- 7.7.5. I note that the Department of Culture, Heritage and the Gaeltacht commented that the site may contain important foraging or feeding grounds and nesting sites. Having visited the site, I consider it is unlikely that the site contains ex situ nesting or foraging grounds, where it is effectively laid to hardstanding and contains no mature trees or shrubs and limited vegetation.
- 7.7.6. Having regard to the nature and scale of the proposed development, on a brownfield site which is zoned and serviced, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

- 8.1. I recommend that permission for the proposed development be granted, subject to conditions as set out below.

9.0 Reasons and Considerations

Having regard to the 'Existing Residential' zoning which applies to the site under the Mullingar Local Area Plan 2014-2020, under which residential development is permissible, the support provided within the local area plan for the development of underutilised infill and backlands under Policy P-SR2, together with the nature and scale of the proposed development and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions below, the proposed development would represent an appropriate form of development, which would not be visually obtrusive, would not seriously injure the amenities of the area or the amenities of property in the vicinity and would not result in a road safety or traffic

hazard. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the submission of further information on 18th December 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) The site access, internal road network and parking layout shall comply with the detailed standards of the planning authority for such road works and shall comply with the provisions of the Design Manual for Urban Roads and Streets.</p> <p>b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(c) Footpaths shall be a minimum of two metres in width throughout the proposed development.</p> <p>Reason: In the interests of road and pedestrian safety.</p>
3.	<p>First floor windows adjacent to the site boundaries within units 3, 4, 9, 10 and 11, should be provided as high-level windows, a minimum of 1.8m above floor level. Prior to the commencement of development revised plans shall be submitted, for the written agreement of the Planning Authority, to reflect these revisions.</p>

	<p>Reason: In order to safeguard the residential amenities of property in the vicinity and in the interest of orderly development.</p>
4.	<p>Details of proposed boundary treatments and private amenity space boundaries shall be agreed with the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interest of visual amenity and to protect residential amenity.</p>
5.	<p>Details of proposed landscaping, which should include provision for bats, shall be agreed with the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interest of visual amenity and to protect residential amenity</p>
6.	<p>Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development.</p> <p>Reason: In the interest of wildlife protection.</p>
7.	<p>The use of the 'existing building' shown on site plan drawing No. PP005 Rev A, which extends into the site over the east site boundary, shall be confirmed to the Planning Authority prior to the commencement of development and necessary privacy protection measures shall be provided, such measures to be agreed with the Planning Authority.</p> <p>Reason: In order to protect residential amenity and in the interest of orderly development.</p>
8.	<p>Details of the materials, colours and textures of all the external finishes within the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
9.	<p>Water supply and foul and surface drainage arrangements shall comply with the requirements of the planning authority for such works and services,</p>

	<p>details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
10.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.</p> <p>Reason: In the interests of orderly development and the visual amenities of the area.</p>
11.	<p>Proposals for a naming and numbering scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Thereafter, all estate signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>
12.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of this development.</p> <p>Reason: In the interest of public health and orderly development.</p>
13.	<p>The construction of the development shall be managed in accordance with a Construction and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall include details of intended construction practice, noise management measures, parking proposals for construction workers on the site and storage of materials and waste within the site.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
14.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400</p>

	<p>hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
15.	<p>Public lighting shall be provided in accordance with a scheme, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available by the developer for occupation of any house / unit within the relevant phase of the development.</p> <p>Reason: In the interests of amenity and public safety.</p>
16.	<p>Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended unless an exemption certificate shall have been applied for and been granted under section 97 of the Act.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
17.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority</p>

	<p>and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
18.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
19.	
20.	

Barry O'Donnell
Planning Inspector

14th May 2021