



An  
Bord  
Pleanála

## Inspector's Report ABP-310284-21

<b>Development</b>	Construction of 41 new dwelling units.
<b>Location</b>	Priors Point, Carrick on Shannon, Co. Leitrim
<b>Planning Authority</b>	Leitrim County Council
<b>Planning Authority Reg. Ref.</b>	2054
<b>Applicant(s)</b>	KDM Construction Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Priors Point Residents Association.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	10 <sup>th</sup> of March 2022.
<b>Inspector</b>	Stephanie Farrington

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located to the east of the River Shannon, to the southeast of Carrick on Shannon town centre. The site, which has a stated area of 2.186ha, forms part of a larger landholding in the ownership of the applicant which comprises 15 no. dwellings and a Marina which have been completed as permitted under PA Ref P04/1749. The majority of the appeal site comprises undeveloped land which surrounds the existing houses.
- 1.2. The southern end of the appeal site is occupied by ten concrete raft foundation/floor slabs constructed for houses which were granted permission under PA Ref 04/1749. The application documentation details that permission was granted for 38 no. residential units on site and while construction commenced, this was halted following the economic crash in 2008. The site was purchased by the applicant in 2014 and 15 of the 38 permitted dwellings were permitted. These dwellings comprise 14 no. 4 bed detached houses and 1 no. 5 bed house. These dwellings are occupied and not included within the appeal site boundary.
- 1.3. The appeal site falls in levels from east to west down to the River Shannon. Drawing no. 18136.A.004 Site Survey illustrates levels of 55m to the east of the site and 42m to the west. The northern portion of the site is occupied by an existing pylon and overhead cables traverse the southern portion of the site.
- 1.4. The site is adjoined by the Carrick on Shannon Sewage Plant Complex to the north and existing residential development to the east and south. The western boundary of the site has frontage to the River Shannon. A marina has been developed on site as permitted under P04/1794.
- 1.5. Access to the existing Priors Point development is provided for a Local Distributor Road, located to the east of the site, via a simple priority T junction arrangement. The Local Distributor Road operates within a speed limited of 50 km/ph within the vicinity of the site.

## **2.0 Proposed Development**

- 2.1. The proposed development, as amended in response to Leitrim County Council's request for further information, comprises the construction of 40 no. residential units.

- 2.2. Access to the majority of the units within the development is proposed via the existing entrance from the L3655-1. Access to 2 of the proposed units is provided via Attyrory to the south.
- 2.3. The development includes the provision of a new pump station and connection to the existing public sewer system.
- 2.4. Table 1 below provides a summary of the key development statistics.

<b>Table 1: Key Figures</b>	
<b>Site Area</b>	2.186ha
<b>No. of Residential Units</b>	40 no. houses
<b>Unit Mix &amp; Dwelling Type</b>	2 no. 2 bed semi detached houses 22 no. 3 bed semi-detached houses 10 no. 4 bedroom semi-detached houses 2 no. 4 bed detached houses 3 no. 4 bedroom terraced houses 1 no. 5 bedroom detached house
<b>Density</b>	22 units per ha
<b>Public Open Space</b>	29%
<b>Car Parking</b>	In curtilage – 2 no. spaces per dwelling
<b>Bicycle Parking</b>	None indicated.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Leitrim County Council issued a notification of decision to grant permission for the proposed development in accordance with the following reasons and considerations:

*“Having regard to the location of the proposed development on a brownfield site, in an existing residential development, on zoned lands in close proximity to the town*

*centre of Carrick on Shannon, its proximity to the services and amenities of the town, and its location close to residential and commercial mixed use development, it is considered that the proposed development, subject to compliance with the conditions set out in the Second Schedule, would not seriously injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area”.*

The decision is subject to 18 no. conditions. The following conditions are of note:

- Condition no. 4: Prior to commencement of development the applicant/developer shall obtain a Connection Agreement from Irish Water for the provision of water and wastewater services necessary to enable the proposed development.
- Condition 12: Any encroachment or discharge occurring from the development onto the River Shannon banks or navigation will be formally notified to Waterways Ireland and the required permissions sought before becoming active.

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

#### Planning Reports

##### Initial Planner's Reports (16<sup>th</sup> of July 2020)

3.2.1. The initial planner's report recommends a request for further information. The following provides a summary of the key points raised.

- The application relates to further development at a brownfield site at Prior's Point. Development at Prior's Point was abandoned in 2008 with 15 of the original permitted 38 permitted houses substantially complete. The application relates to the balance of the site.
- The planning authority have no objection to the proposed amendments to the existing services to facilitate the development.
- The proposed sightlines are satisfactory and in compliance with the requirements of the Leitrim County Development Plan and national guidelines. The existing access road is subject to a current request for taking in charge.

- The applicant has not submitted a Justification test in accordance with the requirements of Section 4.2.2.9 of the County Development Plan.
- A number of issues arise in relation to the layout and design of the proposal and issues of residential amenity. Concerns are raised in relation to the quantum of private open space for some units, the lack of dual frontage and provision of less suburban design.
- A request for further information is recommended in respect of the following:
  - 1. Justification Test demonstrating market demand for the scheme.
  - 2. Statement of compliance with the Sustainable Residential Development in Urban Areas in particular in relation to the proposed density.
  - 3. Anomalies on drawings in relation to the numbering of residential units.
  - 4. Revised Drawings are requested to address Design Concerns.
  - 5. Landscaping proposals which provide screening to existing residential properties.
  - 6. Cross Section illustrating relation of Units 40 and 41 with adjoining public roadway.
  - 7. Construction access details.
  - 8. Clarification relation to works to the foul sewer network.
  - 9. Details of Surface Water Drainage proposals.
  - 10. Details on internal road/footpath gradients in accordance with the requirements of DMURS.
  - 11. Street lighting details.
  - 12. Refuse storage details for houses 27 to 29.
  - 13. Details in relation to the proposed relocation of the gas tanks.
  - 14. Survey for Invasive Species on Site.
  - 15. Preliminary Construction and Environmental Management Plan.
  - 16. Flood Risk Study.
  - 17. Details of application to ESB for diversion.

- 18. Phasing proposals.
- 19. Details of parking for the existing Marina.
- 20. Response to third party submissions.

Planner's Report (26<sup>th</sup> of April 2021)

- The report outlines that the applicant's response substantially addresses the issues raised within the FI request and the development satisfies the various policies and objectives of the Carrick on Shannon Local Area Plan 2010-2019 and the Leitrim County Development Plan 2015-2021.
- A grant of permission is recommended.

3.2.2. Other Technical Reports

South Leitrim Area Officer (29<sup>th</sup> June 2020)

- Report recommends a request for further information in relation to details for gradients between the carriageway and units nos. 41 and 42, storm water details, construction access details and Preliminary Construction Management Plan.

National Roads Design Office (8<sup>th</sup> of April 2021)

- This report outlines that the proposed development is located within the constraints study area for the N4 Carrick on Shannon to Dromod Project currently being considered by the National Roads Regional Office (NRRO).
- While the route options for the project are not developed at this time, it is unlikely that Project would impact on the site due to existing site constraints i.e. existing housing.

Water Services/Wastewater (26<sup>th</sup> of March 2021)

- No further comments.

Water Services- Operation and Maintenance (2<sup>nd</sup> of April 2021)

- No further comments.

Enforcement Officer-Taking in Charge Section (15<sup>th</sup> of May 2020)

- A request for further information is recommended in relation to details of the proposed works to the foul sewer network, details of surface water proposals, access proposals road/footpaths, street lighting proposals, refuse bin storage proposals for units 27 to 29 and details relation to proposed relocation of gas tanks.

#### Enforcement Officer Taking in Charge Section (9th March 2021)

- The FI response sufficiently addresses the concerns raised within the initial report. No objection is raised in relation to the development subject to conditions.

#### Water Services (05<sup>th</sup> of May 2020)

- The report outlines that the development lies near a water distribution area serviced by Irish Water. The applicant is required to engage with Irish Water through the submission of a Pre Connection Enquiry (PCE).

#### Water Services/Wastewater (21<sup>st</sup> of April 2020)

- Conditions are recommended.

#### Housing Delivery Unit (8<sup>th</sup> of April 2020)

- 4 no. units within the development are required for Part V purposes. The applicant has submitted a compliant planning application in relation to Part V. A condition is recommended in the instance of a grant of permission.

### 3.3. **Prescribed Bodies**

#### Waterways Ireland (1<sup>st</sup> of May 2020)

The submission confirms that Waterways Ireland welcomes ongoing development along the Shannon. The following condition is recommended in the instance of a grant of permission:

*“Any new encroachment or discharge occurring from the development onto the River Shannon banks or navigation be formally notified to Waterways Ireland and the required permissions sought prior to becoming active”.*

### 3.4. Third Party Observations

3.4.1. The following provides a summary of the points raised within submissions during the initial consultation period:

#### Impact on Residential Amenity

- Overlooking of existing properties- units 5-8 overlook existing houses 8,9 and 10. Overlooking from units 27-29 on existing units 9 to 11.
- Overshadowing and loss of sunlight to existing properties.
- Impact on the structural stability of no. 8 Rockingham. A support wall is required to prevent further subsidence.
- Retaining wall behind units 8 to 14 is defective and incomplete. The completion of wall and remedial works should be part of the application.
- Infrastructural works could pose significant risk and disruption to existing residents.

#### Layout and Design

- The proposed development represents an overdevelopment of the site which would result in the loss of the high amenity setting.
- The density of the development is excessive and over and above that within the existing estate and as originally permitted.
- Proposed units 16 to 26 are located within an environmentally sensitive area of the site on the basis of its close proximity to the river bank.
- Insufficient landscaping details.
- The proposed terraced houses are out of character with the existing pattern of development in the area.
- The Marina should be completed as part of the development. It represents a safety hazard in its current condition.

#### Transportation

- Traffic impact and traffic hazard associated with insufficient sightlines at the entrance to the development. Concerns are raised in relation to the gradient of existing road and the lack of safe crossing point to footpath.

#### Services

- The proposed infrastructure needs to be in place prior to the occupation of the units.

#### Other

- Requirement for a Flood Risk Assessment

3.4.2. The applicant's response to the request for further information was deemed significant and readvertised. The following additional points were raised within submissions on the FI consultation period.

- Conditions are required relating to the completion of the estate.
- A condition is requested requiring the repair of the existing retaining wall.
- Market Demand Report- concerns relating to the financial viability of the project, timeframe for completion of the development and risk of non-completion.
- The applicant hasn't provided a sufficient response to Item 8 of the FI request relating to wayleaves and Taking in Charge.
- Applicants' response to the Phasing plan is vague and non-committal.
- Insufficient car parking has been provided for the Marina.

## 4.0 Planning History

PA Ref. 04/1749 – planning permission granted in January 2006 for 38 no. dwellings and associated landscaping works; with the provision of a new marina and landscaped riverside park; new vehicular and pedestrian entrance from roadway LP-3655-1; diversion of existing 38KV ESB cables; new connections to existing local authority mains drainage and existing local authority water supply to serve the proposed development.

The decision of the Council to grant permission for the development was subject to 23 no. conditions.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The site is located within the administrative boundary of Leitrim County Council and subject to the policies and objectives of the Leitrim County Development Plan 2015-2021 and the Carrick on Shannon Local Area Plan 2010-2019.

5.1.2. The planning department in Leitrim County Council verbally confirmed that the Carrick on Shannon LAP remains in place until it is replaced. The Draft Leitrim County Development Plan 2023-2029 is currently on public display until the 27<sup>th</sup> of April 2022.

### 5.2. Leitrim County Development Plan 2015-2021

5.2.1. Carrick on Shannon is designated as a Tier 1 settlement and Key Town within the County Settlement Hierarchy. The Development Plan sets out the following guidance for Tier 1 centres:

*“Carrick-on-Shannon, with a population of 3,314, (2011 CSO) is the key service, administrative and retail centre. Carrick-on-Shannon has been identified in the Regional Planning Guidelines for the Border Region as a Strategically-Important Town and as such has a key role to play in supporting the economic, social and cultural development of the County and wider area”.*

5.2.2. Policy 6 of the LCDP outlines that: *“It is the policy of the Council to promote the viability of these facilities by encouraging new residential development to locate within the development envelope of existing towns, villages and other centres where these services are available”.*

#### *Justification Test*

5.2.3. Section 4.2.2.9 of the County Development Plan relates to a Justification Test. This outlines that a justification test in terms of the market demand for new residential development will generally be required in the case of all new applications for

residential schemes (two or more dwellings) pending a narrowing of the supply and demand of residential units in those centres where there remains a wide divergence.

#### *Unfinished/Unoccupied Estates*

5.2.4. Section 4.2.2.10 of the LCDP relates to unfinished/unoccupied estates and commercial property within the County. Policy 9 is of relevance.

- Policy 9: It is the policy of the Council to operate a proactive approach and to work with relevant parties towards achieving a sustainable resolution to the difficulties associated with unfinished/unoccupied estates and commercial property within the County.

#### *Landscape Designations*

5.2.5. Map 4.12 of the LCDP identified Areas of Outstanding Natural Beauty, High Visual Amenity and Protected Views and Prospects within the County. The appeal site is located within an area designated as being of High Visual Amenity. Policy 101 outlines the following:

- Policy 101: It is the policy of the Council to permit development in an area of High Visual Amenity only where the applicant has demonstrated a very high standard of site selection, site layout and design and where the planning authority is satisfied that the development could not be accommodated in a less-sensitive location.

#### *Development Management*

5.2.6. Chapter 5 of the Development Plan sets out Development Management Standards. Section 5.3 relates to residential development within towns and villages and outlines the following:

*“Development proposals in the towns and villages of the County should be designed to respect the scale, character and finishes of the local built environment. Proposals located on the edges of built-up areas should be designed to integrate with the existing urban fabric and not to create sprawling boundaries to the towns and villages. Infill proposals will be evaluated to ensure that detailed design elements harmonise with adjoining buildings and that overdevelopment of restricted sites does not result”.*

- Density

5.2.7. Section 5.3.3 of the Leitrim County Development Plan relates to density. This outlines that proposals should provide rationale for the density levels proposed relative to existing or proposed infrastructure and the surrounding town or village character and environment. Proposed development should also have regard to the density of adjoining development, the nature of the adjoining development and site characteristics, the availability of services and the particular layout proposed.

5.2.8. Section 5.3.3 also lists other considerations for developments including appropriate provision for open spaces, adequate privacy for each household, a design that integrates successfully into the existing environment and adequate car parking facilities. Higher residential densities may be considered in brownfield sites close to town/village centres.

- Sight Lines

5.2.9. Section 5.5.8.5 of the LCDP relates to Sight Lines. This outlines that all developments providing for access onto public roads must show that the access proposed will not create a traffic hazard nor interfere with the free-flow of traffic along such roads. Generally, sight lines should be in accordance with either and/or the NRA TD41-42/11 Geometric Design of Major/Minor Priority Junctions and Vehicular Access to National Roads plus NRA TD9/12 Road Link Design published by the National Roads Authority. Each case will be assessed on its own merits and the operational speeds on the roads in question will also be taken into account.

**Table 26: Sight Lines**

Road Status	100 km per hour	80 km per hour	60 km per hour (or less)
<b>National Primary Roads &amp; R280</b>	215m	215m	80m
<b>Regionally &amp; Locally Important Roads</b>	215m	160m	80m
<b>Other Regional Roads</b>	N/A	160m	80m
<b>County Roads</b>	N/A	120m*	70m

**Note:** \*except where operational speed is 60kph or less, 90m may be considered satisfactory.

5.2.10. A relaxation of these sight distance requirements may be considered satisfactory in exceptional circumstances where it can be clearly demonstrated that no other suitable alternative proposal is available and where the proposal would be in accordance with the provisions as set out in the NRA Design Manual for Roads and Bridges - NRA TD 41-42/11 or the Design Manual for Urban Roads and Street, as appropriate.

5.3. Carrick on Shannon Local Area Plan 2010-2019

*Zoning*

5.3.1. The majority of the appeal site is zoned for “Primarily Residential” purposes within the LAP as illustrated in the attached presentation document. The western edge of the appeal site which lies adjacent to the River Shannon is zoned for “Riverside Development”. The Development Plan sets out the following guidance in respect of these zoning objectives:

- **Primarily Residential:** Residential development will be encouraged in the lands zoned ‘Primarily Residential’. The Council seeks to encourage high quality residential schemes, with convenient and safe access to local services and a safe and pleasant local environment. The Council will strive towards the ideal of mixed residential neighbourhoods, where people of different social and economic backgrounds and of different ages live in proximity and harmony.
- It is envisaged that the bulk of residential development will take place on lands zoned ‘Primarily Residential’. Other development that does not negatively impact on the residential use of neighbouring lands will also be open for consideration in this zone. Certain institutional and community uses, small scale enterprises and shops can enliven residential areas and ensure local services are easily available. The key to their acceptability will be their impact on neighbouring residential amenity.
- **Riverside Development:** This zoning relates to leisure, amenity and tourism related uses associated with the River Shannon.

5.3.2. Dwelling is listed as a use which is acceptable in principle on lands zoned for “Primarily Residential” purposes. Dwelling is listed as a use which is not acceptable on lands zoned for Riverside Development.

5.3.3. The following policies and objective are of relevance:

- Objective 2.3c It is an objective of the Council to seek the development of lands zoned ‘Primarily Residential’ for residential and associated uses. Open space and recreational facilities must be provided in association with residential development in accordance with the standards set out in Section Three of this Plan.
- Objective 2.3f It is an objective of the Council to seek the development of lands zoned ‘Riverside Development’ for leisure, amenity and tourism related uses associated with the River Shannon.

#### *Flood Risk*

5.3.4. Section 2.13 of the Development Plan relates to Flood Risk Management. The plan outlines that certain areas located along the Shannon River which are known to be at risk of flooding are proposed for rezoning to a more appropriate land use, e.g., from “Primarily Commercial” and “Primarily Residential” to “Riverside Development”.

5.3.5. Policy 13.4c outlines that: *“It is the policy of the Council to protect the floodplain of the Shannon. Planning permission for development on the floodplain will only be granted in exceptional circumstances and where the Council is satisfied that downstream (and upstream) consequences are insignificant. The Council must be satisfied that all floor levels in such developments are sufficiently high above the maximum recorded flood levels. While the maximum recorded flood level in 2000 was 42.363 OD (Malin) and 42.690 OD (Malin) in 2009, future floods may exceed this level. Accordingly minimum floor levels of 43.365 OD (Malin) and minimum finished ground levels 42.815 OD (Malin) will normally be required. However, the Council may vary these levels upwards in certain circumstances”.*

#### *Development Management Standards*

5.3.6. Section 3.02.02 of the LAP relates to the Design of Layouts. This outlines that the following considerations will be taken into account in the assessment of proposals:

- The need for land to be used economically;

- The capacity of the infrastructure to cater for the design population;
- The adequacy of present and future community facilities.
- Appropriate density (minimum or maximum);
- Adequate privacy for individual houses, flats etc.;
- The safety of proposed layouts and the capacity of existing roads to absorb future development;
- Adequate provision for car parking, open space, landscaping and planting; and;
- Integration with existing development and the preservation of features on site.

5.3.7. The LAP outlines that the Council encourages a mix of residence sizes and layouts within developments. Apartments, maisonettes, terraced housing, detached and semi-detached housing can be combined to create interesting and innovative layouts while at the same time ensuring the most efficient use is made of the land available.

5.3.8. Section 3.02 relates to Residential Design Standards. The following standards are of relevance:

- Normally, minimum private open space of 55 m. sq. will be required for all houses. The standards to be applied for private open space provision per bed-space are 16 sq. m. for houses and 10 sq. m. for apartments and flats. (Thus a standard 3 bedroom house, with one single bedroom and two double bedrooms, would require private open space of not less than 80 m. sq.).
- In addition, a minimum of 22m will normally be required between directly opposing rear first floor windows of habitable rooms.
- A minimum of 2.5m should be provided between dwellings to allow access for maintenance. Where buildings are greater than two storeys this dimension may need to be greater.
- Generally public open space in new residential development, in excess of private space attached to dwellings, shall be provided at the rate of 12 sq. m. per bed-space for houses and 10 sq. m. per bed-space for apartments. Notwithstanding the above a minimum of 15% of the site area will normally be required as public open space.

- Section 3.02.08 relates to “Public Open Space and Landscape Considerations” and outlines that the primary functions of public open space within housing estates are both aesthetic and recreational. Attention must be paid to the proportions and gradient of open space. Long narrow spaces and steeply sloping land will generally be unacceptable.
- Table 3.1 sets out car parking standards. A minimum parking requirement of 2 spaces per dwelling is set out.

5.3.9. Appendix E of the LAP sets out Guidelines for Flood Risk and Development. This includes the following guidance:

- A flood impact assessment and proposals for the storage or attenuation of run/off discharges (including foul drains) to ensure the development does not increase the flood risk in the relevant catchment, must accompany applications for Planning Permission for development of areas exceeding 1 Hectare.
- For developments adjacent to watercourses of a significant conveyance capacity any structure (including hard landscaping) must be set back from the edge of the watercourse to allow access for channel clearing/maintenance. [A setback of 5m-10m is required depending on the width of the watercourse.]

#### 5.4. Regional Spatial and Economic Strategy for the Northern and Western Regional Assembly (RSES)

5.4.1. Carrick on Shannon is identified as a Key Town within the RSES with a population of 4,100 in 2016. Key Towns are designated for a targeted growth of at least 30% relative to the 2016 Census.

5.4.2. Policy RPO 3.1 seeks to develop urban places of regional-scale through:

- Delivering on the population targets for the Metropolitan and Regional Growth Centres through compact growth:
- Delivering significant compact growth in Key Towns; and
- Developing derelict and underutilised sites, with an initial focus within town cores.

5.5. Sustainable Residential Developments in Urban Areas- Guidelines for Planning Authorities (May 2009)

5.5.1. Chapter 6 of the Guidelines relates to Small Towns and Villages. These are defined as settlements with a population ranging from 400 to 5,000 persons. Carrick on Shannon falls within this population range.

5.5.2. Paragraph 6.11 relates to densities or Edge of Centre Sites. The following guidance is provided:

*“The emphasis will be on achieving successful transition from central areas to areas at the edge of the smaller town or village concerned. Development of such sites tend to be predominantly residential in character and given the transitional nature of such sites, 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”.*

5.6. Section 28 Ministerial Guidelines

The following is a list of relevant Section 28 Ministerial Guidelines:

- ‘Design Manual for Urban Roads and Streets’ (DMURS) 2019.
- The Planning System and Flood Risk Management’ Guidelines

5.7. **Natural Heritage Designations**

5.7.1. There are no Natura 2000 sites within 15km of the appeal site. However due to the close proximity to the Upper Shannon River the site may be considered to be hydrologically linked to a number of Natura 2000 sites downstream. This is addressed in further detail in Section 7 of this report.

5.7.2. The following Natural Heritage Areas (NHA’s) and Proposed Natural Heritage Areas (pNHA’s) are located within 15km of the site:

Proposed Natural Heritage Areas

- Lough Drumharlow pNHA- 1.8km
- Sheemore Wood pNHA – 6.8km
- Annaghealy Lough pNHA- 7.3km
- Lough Boderg And Lough Bofin pNHA – 9km

- Kilglass And Grange Loughs pNHA – 9.4km
- Fin Lough (Roscommon) pNHA- 9.4km
- Drumman's Island (Lough Key) pNHA – 12.1km
- Drum Bridge (Lough Key) pNHA - 13.5km
- Tawnytaskin Wood (Lough Key) p NHA- 13.7km
- Hog's Island (Lough Key) p NHA-13.4km

#### Natural Heritage Areas

- Corracramph Bog NHA – 14.6km
- Cashel Bog (Leitrim) NHA - 15.5km
- Lough Rinn NHA- 15.2km

### **5.8. EIA Screening**

- 5.8.1. An Environmental Impact Assessment Screening report was not submitted with the application. The proposed development falls within the categories of '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. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

- 5.8.2. The proposal is for 40 no. residential units on a site of 2.186ha. The site is located within an existing built up area but not in a business district. The site area is therefore well below the applicable threshold of 10 ha. The proposed development falls below the development threshold and mandatory EIA is therefore not required. The site is located within an unfinished housing estate within the urban footprint of Carrick on Shannon. The completion of the development will not have an adverse impact in environmental terms on surrounding land uses.

5.8.3. I have given consideration to whether sub-threshold EIA is required. The introduction of a residential development on a serviced and zoned site within the urban footprint of Carrick on Shannon will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any designated Natura 2000 site as detailed further in Section 7 of this report. The application is accompanied by an Ecology Report, Construction Environmental Management Plan and Invasive Species Survey Report.

5.8.4. The proposed development, which comprises completion of an existing unfinished housing estate, would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Leitrim County Council, upon which its effects would be marginal.

5.8.5. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site within the existing built-up urban area of Carrick on Shannon, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

5.8.6. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the

environment and that on preliminary examination a sub-threshold environmental impact assessment report for the proposed development was not necessary.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. A third party appeal by Priors Point Residents Association was submitted in respect of Leitrim County Council's notification of decision to grant permission for the development. The appeal is accompanied by a traffic safety assessment prepared by Brandon O'Brien Consulting Engineers (attached as Appendix 5 of the appeal).
- 6.1.2. The following provides a summary of the issues raised:

#### Compliance with Planning and Development Regulations 2001-2020

- The validity of the application is questioned. The site location map and schedule of documents was not present on the file. This contravenes Articles 22 (2) (b) and 22 (3) (d) of the Planning and Development Regulations.

#### Incompatibility with Existing Development

- The proposed terrace units (units 27-29) are incompatible with existing dwellings in terms of typology and design.
- The visual impact of the proposed terrace dwellings would devalue the existing low density area. The proposed gabion front boundary wall is inappropriate as a residential boundary.

#### Environmental Reports

- The applicant cleared a large part of the site and existing riverbank trees and vegetation prior to the lodgement of the application. The appeal outlines that Otters have been detected at Priors Point.
- The submitted Natura Impact Statement is largely generic and not site specific. The impact on wildlife is not appropriately addressed.
- Bats have been observed in the estate.

#### Density

- The proposed density is excessive and would adversely affect the high amenity of Priors Point and would devalue existing houses on site. The proposal is contrary to the guidance set out within Section 5.3.3 of the Leitrim County Development Plan which states that proposals should have regard to the density of adjoining developments.

#### Market Demand

- The financial viability of the scheme is questioned having regard to the price range for the proposed houses identified within the Justification Report (€135,000 to €399,000).
- Concerns are raised in relation to the completion of the development.

#### Private Open Space

- Private open space for Units 1 and 2 are below the 11m Development Plan guidance.
- Large areas of the proposed private amenity space are unusable due to terrain (ranging from 1.9m to 5.6m).

#### Public Open Space

- Large area of the proposed public open space are unusable and inaccessible. The open space along the riverbank is outside of the boundary of ownership of the applicant.
- The useable public open space within the development is 2.89% of the total site area. Appendix 2 of the appeal includes an assessment of the proposed public open space areas within the development.

#### Landscaping

- Concerns are raised in relation to the removal of existing landscaping within the development including the coniferous trees at the site entrance, the planting in the middle of the entrance road and the mature tree planting which provides a screen between Priors Point and the adjoining Marina.

#### Traffic Management

- Insufficient information is provided within the proposed traffic management plan in relation to the location of workers parking, toilet facilities, site office, storage areas for waste and waste separation and monitoring of noise levels.

### Proposed Entrance

- The existing access does not comply with recommended sightlines. The junction is considered to be dangerous. Given additional traffic generated by the proposed development and the marina the health and safety of all road users, pedestrian cyclists and motorists should be taken into consideration. The development should improve safety measures at the access road junction.
- Cross reference is made to the safety assessment conducted by Brandon O'Brien Consulting Engineers which is attached as Appendix 5 of the appeal. The following main points are raised:
  - Section 2.5 relates to existing sightlines at the entrance to the development. These were taken at 3m back from the edge of the major road. To the right a sightline of 38.5m is identified and a sightline of 17m is identified to the left. At 2.4m from the road edge a sightline of 50m is observed to the right and 20m to the left. The sightlines are obstructed by existing hedgerows.
  - The sightlines do not comply with the requirements of the Leitrim County Development Plan or DMURs. No assessment of the sightlines is carried out by the planning authority and no case has been presented for relaxation of standards.
  - The public road has the characteristics of a local rural road on the basis of the lack of footpaths, presence of hedgerows and steep downhill gradient of the major road would rule out a reduction in setback.

### Gradient of Road

- The proposed roads and footpaths within the development are at a gradient and would not be accessible for disabled users. Permission should be refused on this basis.

### Marina

- The parking requirement for the marina cannot be determined in the absence of a future plan for the area. The partially developed marina, when complete, would only have capacity for 54 boats. The marina will be a commercial development and will not be for the exclusive benefit of existing residents.
- The application for additional houses should be deemed premature and piecemeal in the absence of a plan for the marina.

## 6.2. Applicant Response

- 6.2.1. A response to the grounds of appeal was provided by Virtus on behalf of the applicant. The following provides a summary of the points raised.

### Compliance with Planning and Development Regulations 2001-2020

- A Site Location Plan and Schedule of Documents were submitted in conjunction with the application. The application was validated in line with the Planning and Development Regulations.

### Compatibility with Existing Development

- While the density increased from the 2005 permission, at 22 units per ha net, it remains modest and in accordance with existing and surrounding development. The density is not considered excessive or inappropriate for a residentially zoned site within a Key Town. No objection to the proposed density was raised by the planning authority.
- The proposed dwellings have been designed to integrate with existing dwellings at Priors Point in terms of the aesthetic, massing and materials. The incorporation of the terrace format will provide a more varied range of homes within the development and avoids monotony whilst respecting design principles.
- The area occupied by units 27-29, proposed as Phase 2, was never intended for use as open space, is zoned for residential purposes, and is currently fenced off for public use. The strip of land to the east of the area will remain in use as public open space. The provision of these units will result in the removal of a number of existing trees but a comprehensive landscaping

scheme will be provided for the site. The 3 trees proposed for removal will be replanted elsewhere on site.

- The terrace units will not result in a devaluation of existing properties. No evidence has been submitted to substantiate this claim.
- The proposed terrace units aid in providing a more sustainable density and promote compact growth, create visual interest, and provide a range of housing types in accordance with County Development Plan and LAP policy.

### Environmental Reports

- A Natura Impact Statement was submitted in conjunction with the application documentation. LCC, as the competent authority raised no concern in relation to the conclusion of the NIS.
- Cross reference is made to the report from Environmental Services Consultancy (ESC) attached as Appendix 6 of the appeal response. This outlines that the riparian zone does not form part of the development zone and no impacts on Otters or protected species is envisaged. No evidence of Otter activity was observed on site.
- The report by ESC outlines that the location of the proposed residential units does not include any roosting or foraging locations as the area was cleared and prepared for building in earlier stages of the project by the previous developer. The riparian zone or treelines will not be interfered with. The development will not impact on bats as there are no roosting locations in the vicinity.

### Density

- The proposed density at 22 units per ha, is appropriate for the receiving site. The development seeks to maximise the development potential of the site without affecting the amenity of existing residents.
- Carrick on Shannon is a Small Town in the context of the guidance set out within the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas. A density range of 20-35 unit per ha in “edge of centre sites” within such locations.

- Proposed Site Section (drawing no 18136.A.301) illustrates that, notwithstanding the difference in levels between existing and proposed dwellings, no overlooking arises in the context of units 23 and 24 The Crescent on the basis of the proposed bungalow format. Provision of buffer planting and adequate separation distance (21.5m) will further negate against overlooking. LCC requested the provision of housing in the area of Units 23 and 24 for safety reasons due to the retaining wall to the rear of existing houses 8-14.

#### Justification/Market Demand

- The appropriateness of Section 4.2.2.9 of the Leitrim County Development Plan 2015-2021 is questioned as market demand for housing should not be a material planning consideration.
- The Justification Report prepared by James O'Donnell Planning Consultant and property development surveyors report prepared by Farrell Property Group identifies a strong market demand in Carrick on Shannon.
- The development includes a variety of unit types which will cater for a mixed tenancy. A strong demand for the units is envisaged due to the quality of the development, proposed unit mix and the riverside location of the site.

#### Suitability of Private Open Space

- The Proposed Site Sections illustrate the slight change in levels in a number of properties including unit nos. 1-25. The dwellings are provided with generous open space provision and despite the change in levels have provided adequate usable private open space.
- Any shortfalls in private amenity space is compensated through the overall amenity associated with the site.
- Units 11 and 12 fall slightly below the 11m depth as addressed within the FI stage. However, these units do not back onto residential gardens, so separation distances are not an issue. The quantum of private open space for these units (123 and 169 sq.m. respectively) exceeds LAP requirements.

#### Suitability of Public Open Space:

- The appellants assessment of open space includes inaccuracies. The measurements of open space are lower than obtained by topographical survey.
- A number of the land parcels included in the appellants calculation of open space do not form part of the open space provisions (including areas A,C,I,J,K,L,M and N). These are incidental open space areas which add to the visual amenity of the development.
- Figure 10 of the appeal response identifies the areas of public open space for the development. 5,690 sq.m. of public open space is proposed which represents 16% of the overall site area (3.56ha). The LAP sets out a requirement for 12 sq.m. per bedspace with a minimum site area of 15% required for public open space. The proposed development in accordance with this.
- In terms of area F to the rear of houses 1 to 7 Priors Point this formed part of the public open space provision under PA Ref 04/1749. While there is a gradient change it doesn't render the open space unusable. Only parts of the open space are liable to flooding.

#### Landscaping

- The existing tree belt along to access to Priors Point is being retained and additional trees will be planted as illustrated within the Landscaping Plan.
- The existing planter in the middle of the entrance road will not be removed.
- The landscaping scheme provides a number of ecological and biodiversity gains.

#### Proposed Traffic Maintenance Plan

- A Preliminary Construction Management Plan was submitted in response to Leitrim County Council's request for further information. The appellants reference to the lack of site specific detail within the plan is noted by the applicant.

- It is common practice for detailed traffic management measures to be agreed on appointment of a contractor and prior to the commencement of development.

#### Suitability of Existing Access

- A technical review of the access junction is addressed within the report on file prepared by TPS Consultants. This confirms that the existing access is suitable to accommodate the proposal.
- The proposed 40 unit residential development would generate limited daily and peak hour trips. The existing sightlines are deemed acceptable.

#### Suitability of Internal Access Road

- The challenging topography of the site is noted. Gradients to the northern and southern sides of the Crescent have been reduced from 8.3% as originally proposed to 6.6%. The proposals are in accordance with DMURS and below the allowable maximum gradient.
- Any concerns relating to the safety of the internal road network could be addressed within a Road Safety Audit required by condition in the instance that the Board is minded to grant permission for the development.

#### Provision of Car Parking for the Marina

- The provision of the Marina is in accordance with the zoning objective pertaining to the site for “Riverside Development”.
- 16 parking spaces were provided to accommodate the Marina in response to LCC’s request for further information to ensure there are no issues associated with parking within the development.
- The applicant is not aware of plans to increase the capacity of the Marina.
- The provision of parking to serve the marina will facilitate its use and ensure no negative impact on parking within the proposed residential scheme.

### **6.3. Planning Authority Response**

#### Response to 3<sup>rd</sup> party appeal

6.3.1. Leitrim County Council provided the following response to the grounds of appeal (Correspondence dated the 17<sup>th</sup> of June 2021).

Application Background/History

- The Council's report includes a summary of the history of the development on site. Planning permission was granted for development of 38 no. residential units on site under PA Ref. 04/1749. The development was abandoned in 2008 with 15 of the original 38 permitted houses substantially complete. The site was subsequently by the applicant who completed the 15 houses.
- The site location map and drawings are in accordance with Article 22 of the Planning and Development Regulations.

Incompatibility with Existing Development

- The planning authority is satisfied that the proposed development respects the amenity of existing residents and does not create an adverse visual impact. The land is zoned residential with existing services and infrastructure in place to serve additional dwellings.

Environmental Reports

- The planning authority is satisfied with the conclusion of the submitted Natura Impact Statement that the proposal will have significant impacts on the Natura 2000 network.

Density

- The pattern of development maximises existing and future infrastructure provision in a manner that promotes sustainability, active travel and makes more efficient use of underutilised lands. The proposed development supports the sequential approach to the delivery of housing and the proposed density is considered appropriate.

Market Demand

- There is a requirement for additional housing in accordance with the RSES population projections for the county. The applicant submitted a justification for the proposal which addresses market demand and the proposed housing mix.

### Open Space

- Public open space of 6,530 sq.m. 29% is provided for within the development. The open space seeks to maximise accessibility to the river. The overall development has a unique amenity associated with the River Shannon, the Marina and associated open space.

### Landscaping

- The proposed landscaping is considered appropriate. The boundary between existing and proposed housing will be reinforced with existing native hedging.

### Traffic Management

- The Planning Authority is satisfied that the proposed development will not create a traffic hazard.

### Sightlines at Entrance

- The junction is located within the 50km/ph zone. The sightlines are satisfactory and in compliance with both the County Development Plan and national guidelines.

### Gradient of Road

- The proposed development has taken account of DMURS, but the particular topography of the site and site conditions require a gradient of 6.6% at the Crescent. The planning authority is satisfied that the development has been designed appropriately.

### Marina car parking

- The proposed 16 no. car parking spaces for the marina are located away from the rear boundaries of the houses in the interest of protecting their private amenity area.
- The marina is principally for the enjoyment of the residents of Priors Point. The provision of additional parking offers supplementary parking for the use of the marina.

Correspondence from Leitrim County Council dated 29/06/21 outlines that the planning authority received submission from Gary O 'Connor Rhatigan Architects on

behalf of the applicant KDM Construction Ltd. The planning authority have no further comments/observations.

#### **6.4. Further Responses**

Priors Point Residents Association provided the following response to the applicant's response to the grounds of appeal.

##### Non Compliance with Planning Regulations:

- The applicant provided a Site Location Map and Schedule of Documents. These documents were not scanned on-line or in the hard copy of the planning file.

##### Layout Concerns

- Units 27-29 do not blend with the typology or density of adjoining development. Concern is raised in respect of the proposal to remove c. 380 sq.m. of existing open space to accommodate the front gardens, car parking and access road associated with these properties. There is a loss of visual amenity to the opposite properties as a result of the removal of existing trees to facilitate the development.
- The siting of the properties results in a traffic hazard as the access to the houses is on a pinch point of the existing road and adjacent to the proposed road for the marina car park.
- Units 23 and 24 result in the removal of open space. The applicants' comments regarding safety issues associated with the open space are questioned. This was deemed acceptable by Leitrim County Council within the original approval.
- Concerns are raised in relation to the siting of the proposed public open space beside the river. This presents a health and safety risk for children as the area is not supervised from the crescent houses. A public open space should be provided for houses on the crescent.

##### Suitability of Private Open Space

- The quantum of private open space is not in accordance with Development Plan Standards. Reference is made to the level differences within the rear gardens. House nos. 22 and 23 on the crescent have an increase in levels of over 3m over 10m. The quantum of private open space should be in accordance with Development Plan standards and the topography should be graded to ensure its usability.

#### Suitability of Public Open Space

- Concerns are raised in relation to the areas identified as public open space within Areas F and G in Figure 9.
- The public open space is to be used by a community of circa 160 persons. The intensive use of the open space would be detrimental to residents overlooking the riverside.
- Private open space associated with properties 1 to 7 is open and semi permeable in nature. Use of the public open space would impact on privacy of private amenity space.
- Half of the area labelled F is within a flood zone and is therefore inaccessible, a hazard to children and does not constitute usable open space. Photos are attached to the correspondence which illustrate the extent of flooding. The gradient in area F also renders it unsuitable as usable open space.
- The topography of Area G renders it unsuitable. Parts of Area G are also liable to flooding.
- Wildflower meadow is not accessible public open space.
- No public open space is provided in close proximity to the crescent houses.
- Riverside recreational facilities were provided within the original application. These have been removed in the current proposal.
- The developer should provide 15% public open space within the development, which is usable, accessible, not liable to flooding and not sloped.
- There is scope for enhancement of landscaping of the high amenity area. The Board is requested to include a condition for significant landscaping

improvement in the area, in consultation with the residents prior to the commencement of development.

#### Suitability of Access Road

- Concerns are raised in terms of the gradients of the access road. The Board is requested to refuse permission for any deviations in minimum accessible gradients of roads, footpaths and walks.
- The applicants report does not contain on the ground survey of existing sightlines supporting their claim that the junction is safe.
- The proposed internal access roads do not meet the Design Standards and Building Regulations (Part M). Non-compliance would be detrimental disabled persons or persons with reduced mobility.
- The sightlines and safety at the junction is the key consideration independent of volumes of traffic. The report assesses the proposed additional 40 no. houses but does not take into consideration traffic associated with the 54 berth marina.
- The traffic count is invalid as traffic movements are reduced as a result of residents working from home (27%), retired residents (46%) and unoccupied properties (26%).

#### Marina car parking

- The area where house nos. 27,28 and 29 are shown should be retained for development associated with the marina. The development should provide adequate parking for the marina which is owned by the developer.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Proposal
- Layout and Design

- Impact on Residential Amenity
- Landscaping, Open Space and Ecology
- Traffic and Transportation
- Flood Risk
- Other Issues
- Appropriate Assessment

## **7.2. Principle of Proposal**

- 7.2.1. The appeal site comprises a brownfield site within an existing unfinished residential estate at Priors Point, Carrick on Shannon. The site is located within the urban footprint of Carrick on Shannon and primarily zoned for “Primarily Residential” purposes within the Carrick on Shannon Local Area Plan. The western portion of the site adjacent to the River Shannon is zoned for “Riverside Development” purposes.
- 7.2.2. Carrick on Shannon is designated as a Tier 1 Centre within the County Settlement Hierarchy and a Key Town within the RSES for the Northern and Western Regional Assembly. It is an objective of the NPF and RSES that at least 30% of all new homes will be delivered within or in close proximity to the existing built-up areas of settlements.
- 7.2.3. The proposal seeks to complete the existing unfinished estate at Priors Point. The principle of the development of the site for 38 no. residential units was established under PA Ref. 04/1749. 15 of the permitted units were constructed and completed. The proposed development comprises 40 no. units on a site of 2.186ha. The application documents detail a net density of 22 units per ha. The third party appeal outlines that the proposed density which is over and above that previously permitted on site constitutes an overdevelopment of the site.
- 7.2.4. Carrick on Shannon, with a population of 4,062 in 2016, would be classified as a small town within the context of the Sustainable Residential Development in Urban Areas Guidelines. The Guidelines identify a density in the range of 20-35 units per ha for edge of centre sites within such centres. The proposed density falls within this

range. I consider the principle of the proposed density to be acceptable in this context subject to design and residential amenity considerations.

7.2.5. I note the requirements of Section 4.2.2.9 of the Leitrim County Development Plan which set out a requirement for a justification test in terms of the market demand for new residential development. This is addressed within the Justification Test Report submitted with the FI response on the basis of the completion of an unfinished housing development, responding to local market conditions, demographic trends and provision of a mix of units which caters for local housing needs. I consider that a robust justification for the proposal has been provided in this regard.

7.2.6. In conclusion, I consider that the principle of the development of a zoned and serviced brownfield site within the urban footprint of Carrick on Shannon for residential purposes is acceptable in principle and will support national and local policy objectives for compact growth. The principle of residential development has been established at this location and the proposal seeks the completion of an existing unfinished housing estate. The proposed development supports the sequential approach to the delivery of housing. I consider that the principle of the proposed density is acceptable and in accordance with guidance set out within national and local policy subject to layout and residential amenity considerations.

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

7.3.1. The site is currently occupied by 15 no. detached residential units which occupy the central portion of the site, a marina and internal road network as permitted under PA Ref 04/1749. 38 residential units were permitted on site under the parent permission and 15 were completed. The development includes the construction of an additional 40 no. residential dwellings on site. The existing raft foundations of previously approved dwellings on site are proposed to be removed to accommodate the proposal (as illustrated on the Proposed Site Survey Drawing no. 18136.A.004).

7.3.2. A rationale for the design and layout of the development is set out within the design statement prepared by Rathigan Architects submitted in support of the application. This outlines that the proposal seeks to follow the design principles of the previously permitted planning application PA Ref. 04/1749 while complying with current guidelines.

- 7.3.3. Figure 7 of the applicant's Design Statement includes a Site Plan extract of the previously approved layout permitted under PA Ref. 04/179. The layout of the proposed residential units as illustrated on Drawing no. 18136.A.002 "Proposed Site Plan" primarily reflects that previously permitted.
- 7.3.4. The grounds of appeal outline that the proposed density is excessive and would adversely affect the high amenity of Priors Point and would devalue existing houses on site. It is stated that the proposal is contrary to the guidance set out within Section 5.3.3 of the Leitrim County Development Plan 2015-2021 in this regard which states that proposals should have regard to the density of adjoining developments.
- 7.3.5. The site is zoned for residential development and located within the urban footprint of Carrick on Shannon. The proposed density at 22 units per ha is not in my view excessive for the site or the surrounding area and is within the range identified within national guidance and LAP policy. An increase in density on site is achieved through the introduction of a mix of detached, semi-detached and terrace units in place of the previously proposed detached dwellings. On review of the architectural drawings and design statement I consider that proposed development has been designed to integrate with the existing development at Priors Point.
- 7.3.6. The site is located within an area of High Visual Amenity as identified within the Leitrim County Development Plan. I refer to the requirements of Policy 101 of the LCDP which outlines that a high standard of site selection, layout and design will be required in such areas. In this regard, I note that the site relates to an unfinished housing development where the principle of residential development has been established. I consider that the site in its current condition detracts from the visual amenity of the area and the completion of the development is welcomed.
- 7.3.7. I refer to the guidance set out within Section 5.3 of the Leitrim County Development Plan which outlines that *"Development proposals in the towns and villages of the County should be designed to respect the scale, character and finishes of the local built environment"*. The appeal outlines that the proposal is incompatible with the existing pattern of development in the area and contrary to Development Plan guidance in this regard.
- 7.3.8. In design terms, I consider that the proposed residential units reflect those established by the existing houses at Priors Point including steep roof pitches, stone

and timber cladding and white render. In this regard I consider that the proposed dwellings have been designed to integrate with existing dwellings at Priors Point in terms of the aesthetic, massing and materials.

- 7.3.9. The existing development at Priors Point includes 15 no. detached dwellings. The proposed development, which includes 40 no. dwellings, seeks to introduce a mix of dwelling formats within the development including detached (3 no. units), semi-detached (34 no. units) and terrace units (3 no. units). The appeal raises concern in relation to the proposed mix of formats and the introduction of a terrace format to the development. It is stated that the provision of terrace houses (units 27-29) is incompatible in terms of typology and design with existing properties. The appeal outlines that the incorporation of these units within the development will result in a devaluation of existing neighbouring properties.
- 7.3.10. I consider that the introduction of a mix of housing formats will provide a more varied range of homes within the development whilst respecting design principles established by existing development on the site. The proposed terrace units (units 27-29) aid in providing a more sustainable density and promote compact growth, create visual interest, and provide a range of housing types in accordance with County Development Plan and LAP policy. I refer to the points raised within the appeal in relation to the proposed stone gabion wall boundary but note that this reflects the boundary treatment along the access road to the development. I do not consider that it detracts from the visual amenity of the area.
- 7.3.11. I note the concerns raised in the grounds of appeal in relation to devaluation of existing property through the introduction of a dwelling mix, however I see no evidence to substantiate this claim. The proposed 3 no. terrace units are located in a distinct area to the north of the site and I consider that the design of the dwellings reflect the established character of properties within the site. I furthermore consider that the proposed mix in unit format/typology will promote a mix in tenure within the development which is in accordance with the policies of the Carrick on Shannon LAP and Leitrim County Development Plan.
- 7.3.12. The appeal raises concern in relation to the siting of Units 27-29 within an area of previously approved public open space. On-site inspection, I note that the area referred to by the appellant is currently fenced off and not available for use as public

open space. The applicant's appeal response furthermore notes that the area occupied by units 27-29 was never intended of approved for use as open space and is zoned for residential purposes. While the development of residential units at this location represents a deviation from the previously approved layout, I have no objection to the principle of additional residential units at this location.

- 7.3.13. The proposed development will result in the completion of an unfinished housing estate on residentially zoned land within Carrick on Shannon. I consider that the site in its current format detracts from the visual amenities of the area. On an overall basis, I consider that proposed development has been designed to integrate with and respond to the existing character of Priors Point and has achieved an appropriate increase in density in accordance with national and local policy objectives.

#### **7.4. Impact on Residential Amenity**

- 7.4.1. The grounds of appeal raise concern in relation to the impact of the proposed development on the residential amenity of the existing properties at nos. 1-15 Priors Point and the residential amenity of the proposed residential units. I consider the points raised in turn as follows.

##### *Residential Amenity of Existing Properties*

- 7.4.2. The site is located with the urban footprint of Carrick on Shannon and adjoined by existing residential development to the south along Attyrory Road and the east at Rockingham. The development relates to the completion of an unfinished housing estate of which 15 of the permitted 38 no. residential units have been completed. The third party appeal lodged by Priors Point Residents Association raises concerns in relation to the impact of the proposal on the residential amenity of existing residential properties on site. Concerns relating to overlooking and impact on privacy are raised in this context.

- Overlooking

- 7.4.3. The Carrick on Shannon Local Area Plan outlines that a minimum separation of 22m will normally be required between directly opposing rear first floor windows of habitable rooms. On review of the site layout, I note that this is achieved in the majority of instances.

- 7.4.4. The third party appeal raises specific concern in relation to overlooking from proposed units 23 and 24 on the basis of the c.3.5m the level difference between the existing and proposed properties. The relationship between unit no.24\* and existing dwelling at no. 11 Priors Point is illustrated within the Proposed Site Section A (drawing no 18136.A.301). (\* I note that Unit 24 is labelled as Unit 25 on the drawing. However, the numbering of units changed within the FI response).
- 7.4.5. Site Section A illustrates sightlines from Unit 24 and this illustrates that, notwithstanding the difference in levels between existing and proposed dwellings, no overlooking arises on the basis of the proposed bungalow format. I consider that the provision of buffer planting, proposed boundary treatment including a 1.8m boundary fence and adequate separation distance between existing and proposed properties will further negate against overlooking from proposed units 23 and 24 at the Crescent.
- 7.4.6. The interface between the proposed housing units and private open space associated with units 8 to 15 will be reinforced with existing native hedging as illustrated within the landscaping plan.
- Impact on Privacy
- 7.4.7. The appeal outlines that the existing private open space associated with properties 1 to 7 is open and semi permeable in nature. It is stated that the use of the riverside public open space would impact on privacy of private amenity space.
- 7.4.8. On-site inspection I note that the boundary treatment enclosing the existing open space serving units 1-7 is defined by a low level fence and open in nature which provides unobstructed views to the River Shannon. In considering the grounds of appeal I note that the principle of the location of the existing public open space to serve 38 no. units and boundary treatment of existing houses has been established at this location under the parent permission pertaining to the site.
- Overshadowing
- 7.4.9. While not specifically raised within the grounds of appeal, I note that observations on the application raise concern in relation to overshadowing associated with the proposal.

7.4.10. No specific daylight and/ or sunlight study was provided with the application. I have had full regard to the Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' and which describe recommended values (e.g., ADF, VSC, APSH, etc) to measure daylight, sunlight and overshadowing impact. It should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria (para.1.6). The BRE guidelines also state in paragraph 1.6 that: 'Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.'

7.4.11. The BRE document notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. in Section 5 of the standards. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and the arrangement of open space, and these factors will vary from urban locations to more suburban ones.

7.4.12. On review of the site layout, I consider that given the level of separation between houses, both within the site and to adjacent housing, I am satisfied that the houses would receive adequate daylight/sunlight, in accordance with the recommendations of Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice (BRE, 2011).

- Phasing

7.4.13. The appeal requests that infrastructure should be put in place as Phase 1 of the development in the instance that permission is granted. I note the requirements of Condition no. 10 of the planning authority's decision in this regard which outlines that infrastructure works shall be carried out in advance of house construction. I consider that the requirements of this condition to be reasonable and consider that this can be addressed via a phasing plan to be submitted for agreement of the planning authority prior to the commencement of development.

- Conclusion

7.4.14. In conclusion I am satisfied that the proposed development respects the amenity of existing residents and does not create an adverse visual impact on the established

character and setting of the Priors Point development. I consider that the completion of the development will enhance the residential amenity of the area.

#### Residential Amenity of Proposed Dwellings

7.4.15. In terms of the residential amenity of the proposed units I note that the internal layout of each of the proposed houses, in particular the combined living space and bedrooms, exceeds the recommendations of the Quality Housing for Sustainable Communities (2007) guidelines.

- Private and Public Open Space

7.4.16. The third party appeal raises concern in relation to the quantity and quality of private open space within the development. The usability of public open space is questioned on the basis of gradient changes (ranging from 1.9m to 5.6m) and it is stated that the private open space for Units 1 and 2 are below the 11m Development Plan guidance.

7.4.17. The Carrick on Shannon Local Area Plan sets out the following requirements for private open space:

- Normally, minimum private open space of 55 m. sq. will be required for all houses. The standards to be applied for private open space provision per bed-space are 16 sq. m. for houses

7.4.18. Private open space for each property is provided in excess of Local Area Plan Standards. The Proposed Site Sections illustrate the slight change in levels in a number of properties including unit nos. 1-25. However, I note that despite the change in levels these properties are provided with adequate usable private open space.

7.4.19. Units 11 and 12 fall slightly below the 11m depth referred to by the appellant. However, these units do not back onto residential gardens, so separation distances are not an issue. The quantum of private open space for these units (123 and 169 sq.m. respectively) exceeds LAP requirements.

7.4.20. The grounds of appeal raise concern that the proposal does not include provision for public open space for the proposed additional residential units and outlines that the existing open space area along the sites western boundary is peripheral to the

proposed housing units at the Crescent. I consider the public open space provision in further detail within Section 7.5 of this assessment.

- Separation Distances

7.4.21. Separation distances of 22m between directing opposing windows are provided for in accordance with local area plan standards. The LAP set out a requirement for a minimum of 2.5m between dwellings to allow access for maintenance. The site layout plan outlines that this is achieved for units 1-22, however separation distances between units 16 to 26 fall marginally below this requirement. However, I consider the proposed separation distances are appropriate for access purposes.

7.4.22. In conclusion, I consider that the proposed development provides a high quality of residential amenity for future residents of the scheme.

## 7.5. Landscaping, Open Space and Ecology

7.5.1. The third party appeal raises concern in relation to the quantity and quality of open space provided within the development. The appeal questions the overall quantum of open space within the development and its usability on the basis of gradient changes, siting, interface with private open space and flood risk. The appeal includes a detailed audit of each of the public open space areas within the development.

7.5.2. The Carrick on Shannon Local Area Plan sets out a requirement 12 sq.m. per bedspace for houses and a minimum of 15% of the site area as public open space. Figure 10 of the applicant's appeal response identifies the designated areas of public open space for the development. 5,690 sq.m. of public open space is proposed which represent 16% of the overall site area (3.56ha) and exceeds the minimum LAP requirements. The appeal response furthermore identifies that on the basis of existing and proposed bedspaces within the development a total of 4,704 sq.m. public open space would be required.

7.5.3. In terms of the classification of open space I note the guidance provided within the Carrick on Shannon LAP which outlines that "incidental space and '*space left over after planning*' [SLOAP] *will not be acceptable as open space provision*". The proposed open space areas are identified within Figure 10 of the applicant's appeal response. The main concentration of public open space within the development is currently provided to the west of the site along the River Shannon and at the

entrance to the development. The applicant outlines that a number of smaller pockets of open space within the development which are identified as unusable within the third party appeal constitute ancillary open space areas which would contribute to the character and setting of the development. On the basis of the information submitted, I am satisfied that the quantum of public open space within the development exceeds LAP requirements.

- 7.5.4. Concerns are raised in relation to the siting of the proposed public open space beside the river, its location relative to the proposed houses at the crescent and its usability on the basis of gradient changes and flood risk. It is stated that this presents a health and safety risk for children as the area is not supervised from the crescent houses. The appeal outlines that additional public open space should be provided for houses on the crescent.
- 7.5.5. At the outset in considering the points raised in this regard I note that the principle of public open space adjacent to the River was determined under the parent permission. The siting of the open space also reflects the “Riverside Development” zoning objective of this portion of the site. The public open space area is currently existing as illustrated within the attached presentation document. On-site inspection while I note that there is a gradient change within the primary open space area, I do not consider that this renders the open space unusable. As detailed within further sections of this report only parts of the open space are liable to flooding.
- 7.5.6. I consider that the open space would be adequately supervised by the proposed houses to the south of the site and do not consider the siting of the open space to be remote relative to the proposed houses at the Crescent.
- 7.5.7. A detailed landscaping plan is submitted in conjunction with the application “Proposed Site Landscape Design” (drawing no. 18136.A.005). This identifies a range of open spaces areas including a wildflower meadow and amenity grass area. The landscaping scheme includes proposals to increase in the quality and quantity of planting throughout the site and the retention of the majority of existing planting.
- 7.5.8. The grounds of appeal raise concern in relation to the loss of existing trees on site to accommodate the proposal. While the provision of units 27-29 will result in the removal of a number of existing trees, I consider that this is acceptable having regard to the quality of the proposed landscaping scheme which includes

replacement planting and the need to develop the subject site to its maximum potential in accordance with strategic land use policy for urban areas. I also note that the planning authority has raised no objection to the loss of existing trees on site to facilitate the proposal.

- 7.5.9. In conclusion, I consider that the public open space within the development represents a high quality amenity area for existing and proposed residents of the Priors Point Development.

#### Ecology

- 7.5.10. The third party appeal outlines that the impact of the proposal on wildlife/ecology has not been comprehensively addressed within the application. Reference is made to the presence of Otters and Bats on site.
- 7.5.11. The applicant's appeal response includes an Ecological Report prepared by Environmental Services Consultancy (attached as Appendix 6 of the appeal response). This outlines that the riparian zone does not form part of the development zone and the riparian zone and existing tree line will not be interfered with. No evidence of Otter or Bat activity was observed on site during site surveys. The report outlines that there are no bat roosting locations in the vicinity.
- 7.5.12. The concerns of the third parties are noted, however, having regard to the contents of the Ecological Report and the applicants appeal response it is my view that sufficient information has been submitted to fully assess the impact of the development on local ecology. I do not consider that the proposed development would not have a significant negative impact on the biodiversity of the site. I consider that the proposed landscaping scheme provides a number of ecological and biodiversity gains.

#### **7.6. Traffic and Transportation**

- 7.6.1. The third party appeal raises concern in relation to traffic impact associated with the proposal, the safety of the existing access on the basis of insufficient sightlines and accessibility constraints of the internal road network on the basis of the sites gradient. The appeal is accompanied by a report prepared by a transportation report prepared by Brandon O'Brien Consulting Engineers. I consider the points raised in turn as follows.

### Traffic Impact

- 7.6.2. The 3<sup>rd</sup> party appeal outlines that the cumulative traffic impact of the existing and proposed development within the site which would include a total of 55 no. residential units and a Marina is not sufficiently addressed within the application. Concerns relating to the traffic impact of the proposal are raised within the appeal in this regard.
- 7.6.3. A Transport Report prepared by Transportation Planning Services is submitted in conjunction with the appeal response. The report outlines that traffic surveys undertaken at the junction during the AM and PM peak (8am-9am and 5pm to 6pm) identify that traffic movements associated with the existing development on site are minimal (less than 10). The appeal questions the validity of the survey on the basis of residents working from home, unoccupied units and retired residents. However, on the basis of the limited number of units within the development I do not envisage significant additional traffic movements.
- 7.6.4. Section 3 of the TPS report assesses traffic impact associated with the proposed 40 no. residential units. This identifies limited traffic movements associated with the residential units during the AM and PM peak which can be accommodated by the existing site access (AM peak – 6 arrivals, 15 departures, PM peak 14 arrivals, 7 departures). As detailed within the 3<sup>rd</sup> party appeal I note that the traffic survey does not address traffic movements associated with the existing Marina on site. However, I consider that traffic movements associated with this recreational use would primarily occur outside of the AM and PM peak periods.
- 7.6.5. The principle of 38 no. residential units is established under the parent permission pertaining to the site. Having regard to the limited scale of the development (17 no. additional units over and above that previously permitted- 15 of which will be served by the existing access), the proposed parking provision and the location of the site within the urban footprint of Carrick on Shannon I do not consider that the development constitutes a scale or format of development which would generate substantial traffic movements on the adjoining road network.

### Access Sightlines

- 7.6.6. Access to the site is currently provided via an existing entrance from the local road which is located to the east of the appeal site. The existing access is proposed to

serve the majority of units within the scheme. Access to two of the proposed units will be provided via Attyrory to the south of the site. The L3655-1 operates within a speed limit of 50km/ph and runs in a straight alignment within the vicinity of the site. The L3655-1 rises to the south of the estate. The appeal outlines that the existing access arrangements are unsafe on the basis of insufficient sightlines which are contrary to the requirements of DMURS and the Carrick on Shannon Local Area Plan.

- 7.6.7. The existing access comprises a simple priority T junction off the local road which is controlled via a stop arrangement with associated signage and road markings. This access was permitted to serve 38 no. residential units under PA Ref 04/179.
- 7.6.8. The report on file prepared by TPS Consulting outlines that sightlines of 45m at 2m are achievable at the existing site entrance as illustrated on Drawing no. 18136.A.008. I see no record of this drawing within the application documentation. Section 4.4.5 of DMURS relates to required visibility splays. Table 4.2 outlines that visibility splays of 45m at 2.4m are required on land within the 50km/ph road speed. DMURS outlines that *“in difficult circumstances this may be reduced to 2.0 metres where vehicle speeds are slow and flows on the minor arm are low”*.
- 7.6.9. The Enforcement Officer’s report outlines that existing sightlines comply with the requirements of Table 26 of the Leitrim County Development Plan 2015-2021. It is stated that these cannot be increased without a full vertical realignment of the public road and this option is not considered practical due to the multiplicity of access/entrances serving onto the road.
- 7.6.10. I note the reference within the appeal to the restrictions on sightlines associated with existing hedgerows in the visibility splay. The report prepared by Transportation Planning Services submitted in conjunction with the appeal response recommends that the applicant liaise with the Local Authority and adjoining landowner to reduce the extent of hedgerows which can encroach visibility sightlines. However, the hedgerows lie outside of the applicant’s/developer’s ownership and in this regard the maintenance of the hedgerows cannot be addressed via condition.
- 7.6.11. The planning authority’s internal report from the Enforcement Officer outlines that the existing access road is subject to a current request for taking in charge and outlines that once the road is in charge, any encroachment of the hedgerows into the visibility

splay can be addressed via “hedge cutting” notices issued under Section 70 of the Roads Act 1993. In this regard, I consider that any obstructions to visibility can be addressed under separate legislation.

- 7.6.12. On the basis of the information submitted in conjunction with the application and appeal and from site observations, I consider that the sightlines associated with the existing access are satisfactory. While the application seeks to increase the total number of houses permitted within the development, i.e., from 38 to 55 (53 of which will be served by the existing access) I do not consider that the increase in turning movements at the existing junction would not constitute a traffic hazard. I furthermore note that Leitrim County Council have raised no objection in principle to the operation of the existing junction.

#### Internal Road Network

- 7.6.13. The appeal raises concern in relation to the gradient of the internal roads and its accessibility for mobility impaired users in this regard. The appeal outlines that the proposed internal access roads does not meet the requirements of the Design Manual for Urban Roads and Streets (DMURS) or the Design Standards and Building Regulations (Part M) in this regard.
- 7.6.14. Section 4.4.6 of DMURS sets out guidance for maximum and minimum gradients in streets. This outlines that Part M of the building regulations advises that access routes with a gradient of 1:20 or less are preferred. In this regard, the guidance advises that a maximum gradient of 5% is desirable on streets where pedestrians are active. DMURS outlines that *“in hilly terrains, steeper gradients may be required but regard must be had to the maximum gradient that most wheelchair users can negotiate of 8.3%”*.
- 7.6.15. The gradient of the internal road network was raised by Leitrim County Council within the request for further information. The applicant outlines that the proposed development has taken account of DMURS, but the particular topography of the site and site conditions require a maximum gradient of 6.6% at the Crescent. Other internal roads within the site are provided at a gradient of 5%. I note that the proposed gradients are within the thresholds for mobility impaired users as identified within DMURS. I furthermore note that the proposal relates to the completion of an

existing unfinished estate and no objection to the proposed internal road network has been raised by the planning authority.

- 7.6.16. As detailed within the local authority internal reports the internal road network is subject to a request for taking in charge. I recommend a standard condition that the internal road network shall be in accordance with the requirements of DMURS in the instance that the Board is minded to grant permission for the development.

#### Car Parking

- 7.6.17. The development includes the provision of 2 no. in curtilage parking spaces for each residential unit in accordance with LAP requirements. An additional parking area is provided to the northwest of the site which includes 16 no. car parking spaces for the existing Marina.

- 7.6.18. The appeal outlines that insufficient information is provided within the application in relation to the existing development and future development of the Marina. The appeal outlines that insufficient parking is provided for the Marina and states that the area where house nos. 27,28 and 29 are shown should be retained for development associated with the marina. However, I note that the Marina is not located within the application site boundary and it is existing and operational. Any future development of the Marina would be subject to a separate application. I consider that the provision of supplementary parking as proposed will enhance the overall use of the Marina and will negate against overflow of parking within the Priors Point development.

#### Construction Management Plan

- 7.6.19. A Preliminary Construction Management Plan was submitted in response to LCC's request for further information. The CMP details the proposed location of the construction access, details the volume and type of construction vehicles to be used, oversize load route etc. The appeal outlines that the CMP is generic and not site specific. However, I note that the CMP is preliminary only and subject to further detail on appointment of a contractor in the instance of a grant of permission.
- 7.6.20. I consider the level of detail as set out within the CMP to be sufficient and note that the planning authority have raised no objection to the scope or content of the study. I consider that a detailed Construction Management Plan should be submitted for written agreement with the planning authority on appointment of a contractor and

prior to the commencement of development on site. This point can be addressed via condition in the instance that the Board is minded to grant permission for the development.

## **7.7. Flood Risk**

- 7.7.1. The western boundary of the appeal site is located in proximity to the banks of the River Shannon and separated from the River by a land bank which is zoned for Riverside Development within the Carrick on Shannon Local Area Plan. The existing and proposed residential units are set back from the River Shannon by a minimum of 40m and the River and the western area of the appeal site is occupied by public open space.
- 7.7.2. The issue of flood risk associated with the proposal was raised within Leitrim County Council's request for further information. The applicant's response outlines that the proposed development does not impact on the flood plains of the River Shannon. In addressing flood risk, the FI response outlines that the maximum flood level recorded at Priors Point occurred in November 2011 was a level of 42.373Mod. Reference is made to the CFRAMS map from the OPW Shannon Study which illustrates the extent of flood zones in the vicinity of the site. I refer to the extract from the CFRAMS Study attached to the presentation document in this regard.
- 7.7.3. The guidance set out within Policy 13.4c of the Carrick on Shannon Local Area Plan outlines that it is the policy of the Council to protect the floodplain of the Shannon. Policy 13.4c of the LAP outlines that minimum floor levels of 43.365 OD (Malin) and minimum finished ground levels 42.815 OD (Malin) will normally be required. In terms of compliance with the requirements of Policy 13.4c the applicant identifies the following levels on site:
- The lowest proposed floor level within the development is set at 45mOD which is 2.36m above the 1 in 1000 year flood level and 2.83m above the 1 in 100 year flood level.
  - The lowest finished level of the road to the south-west is 44.38 OD which is 1.74m above the 1 in 1,000 year flood level and 2.21m above the 1 in 100 year flood level.

- The finished floor level of the proposed pumping station is set at 44.6OD which is 1.96m above the 1 in 1,000 year flood level and 2.43m above the 1 in 100 year flood level.

7.7.4. The third party appeal raises concern in relation to the usability of the riverside public open space within the development on the basis of flood risk. The applicant's appeal response outlines that flooding on the site is minimal and confined to winter months when outdoor areas are used. It is stated that the majority of land subject to flood risk is adjacent to the Shannon and outside of the appeal site boundary. This is reflected within the OPW CFRAMS map. On an overall basis, I consider that the open space provides a high quality and useable amenity within the development.

7.7.5. In conclusion, having regard to the existing and proposed site levels and the information submitted in conjunction with the application and appeal, I consider that the applicant has demonstrated that the risk of flooding to the proposed development is low and will not exacerbate flood levels within the site or surrounding area.

## 7.8. Other Issues

### Validity of the Application

7.8.1. The appellant raises concern in relation to the validity of the application. The appellant outlines that the Site Location Plan and Schedule of Documents were not included with the application. However, I note that the application was validated and considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned party from making representations.

### Occupancy Condition

7.8.2. I note the requirements of Circular Letter: NRUP 03/2021 in respect of Regulation of Commercial Institutional Investment in Housing. These guidelines set out planning conditions to which planning authorities and An Bord Pleanála must have regard, in granting planning permission for new residential development including houses and/or duplex units and are of relevance to the proposal. The guidelines seek to ensure that own-door housing units and duplex units in lower density housing developments are not bulk-purchased for market rental purposes by commercial institutional investors. I note that this was not attached as a condition within the

planning authority's decision. I note the proposed development, which comprises 40 no. residential units is a format of development to which the guidelines relate.

- 7.8.3. Having regard to the Section 28 Guidelines in respect of 'Commercial Institutional Investment in Housing', I consider that the development, including 5 or more own-door units and falling within the definition of structure to be used as a dwelling to which these guidelines apply, should include a condition to restrict the first occupation of these units as outlined by the Guidelines. I recommend that this condition is worded that the developer shall enter in agreement with the planning authority prior to the commencement of any house in the development rather than prior to the commencement of development to enable infrastructural works to proceed.

## 7.9. **Appropriate Assessment**

### 7.9.1. Compliance with Article 6(3) of the Habitats Directive

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

A Natura Impact Statement prepared by Environmental Services Consultancy is submitted in conjunction with the application. The application is also accompanied by an Ecological Report prepared by Environment Services Consultancy, an Invasive Species Report and a Construction Environmental Management Plan. The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.

- Section 3 provides a Screening for Appropriate Assessment describes the proposed development and activities, identifies the characteristics of European Sites and provides a Screening Outcome.
- Section 4 provides a Stage II Appropriate Assessment is entitled Natura Impact Statement. It identifies elements of the project potentially impacting on the Natura network and cumulative impacts.
- Section 5 identifies Mitigation Measures to protect Natura sites.

The applicant's AA Screening assessment concludes that:

*“The proposed project is not directly connected with or necessary to the nature conservation management of the designated site. It is uncertain whether the proposed project has the potential to have significant effect on the Natura 2000 sites that are hydrologically connected via the River Shannon. Therefore, following consideration of the location and site characteristics of the proposed development and potential impacts that may occur, this project should proceed to the next stage of Appropriate Assessment, namely the Natura Impact Assessment”.*

Having reviewed the documents and submissions on the case, I am satisfied that the information provides a reasonable basis for the examination and identification of potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

#### 7.9.2. Screening for Appropriate Assessment

The proposed development is located at Priors Point, Carrick on Shannon, Co. Leitrim. The western boundary of the site is adjoined by the Upper River Shannon. The Keenaghban Stream is located to the north of the appeal site.

The applicant's Screening for Appropriate Assessment identifies that no Natura 2000 sites are located within a 15km range of the appeal site. However, it is stated that due to the close proximity of the Upper Shannon River the site may be considered hydrologically connected to Natura 2000 sites further downstream. Since there is potential for pollution from surface water run-off into the River Shannon due to poor soil drainage conditions on-site, it is possible the project may result in potential negative impacts.

#### Proposed Development

The development site is described in section 3.1 of the applicants Screening Statement for Appropriate Assessment. The proposed development comprises of 40 no. residential units and associated site works at Priors Point, Carrick on Shannon, Co. Leitrim.

#### Submissions and Observations

The third party appeal outlines that the submitted Natura Impact Statement is largely generic in nature and not site specific. Concerns relating to the lack of an ecological survey are raised and specific reference is made to the presence of otters in the

vicinity of the site. I note that, otters are a qualifying interest of designated Natura 2000 sites downstream of the site including Lough Ree SAC (000440), River Shannon Callows SAC (000216) and the Lower River Shannon SAC(002165) .

The Planning Authority's response to the grounds of appeal notes the following in respect of the submitted NIS:

*"The Planning Authority is satisfied with the conclusion of the submitted Natura Impact Statement that the proposal will have no significant impacts on the Natura 2000 network. There are no Natura 2000 sites within 15km of the subject site. Subject to the mitigation measures outlined in the NIS it is considered that the proposed development will not undermine the structure or ecological functioning of any Natura 2000 site or the conservation objectives that define the favourable status of the qualifying interests. In making their assessment the Planning Authority have considered the following:*

- i. The likely direct and indirect impacts arising from the proposed development both individually and in combination with other plans and projects*
- ii. Mitigation measures/control measures that are included as part of the current proposal;*
- iii. Conservation Objectives for the European Site;*

*Having regard to the nature and scale of the development and subject to the implementation of best practice construction methodologies and the proposed mitigation measures, the Planning Authority consider that it is reasonable to conclude that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of any Natura 2000 site".*

In my opinion, having regard to the information submitted in the applicants Screening Statement for Appropriate Assessment and the Natural Impact Assessment, sufficient information has been submitted in respect of the characteristics of the appeal site and the proposed development to allow for a full assessment of the impact of the proposed development on designated sites and to allow for a reasoned determination to be issued, which is outlined below.

#### 7.9.3. European Sites

The appeal site is not located within or within 15km of any designated Natura 2000 site. The submitted Natura Impact Statement outlines that due to the close proximity of the site to the Upper Shannon River the site may be considered hydrologically connected to a number of Natura 2000 sites further downstream. The applicant's NIS identifies 11 no. sites downstream of the Shannon are identified within the applicant's Natura Impact Statement. The location of the sites relative to the appeal site is detailed in Appendix 3 of the Natura Impact Statement.

The closest designated Natura 2000 sites to the appeal site are the following

- Lough Forbes Complex SAC, Site Code 001818 – 21km
- Ballykenny-Fisherstown Bog SPA, Site Code: 004101- 21km
- Lough Ree SAC, Site Code 000440 – 29.5km
- Lough Ree SPA, Site Code 004064 – 29.5km

I note that, the Natura Impact Report for the RSES for the Northern and Eastern Region identifies that: *“the River Shannon (Upper) provides a direct pathway from Carrick-on-Shannon to the Lough Forbes Complex SAC and Ballykenny-Fisherstown Bog SPA via Drumsna and Roosky”*.

The following Natura 2000 sites identified by the applicant are over 50km from Carrick on Shannon downstream of the River Shannon.

- River Shannon Callows SAC, Site Code 000216
- Lough Derg, northeast Shore SAC, Site Code 002241
- Lower River Shannon SAC, Site Code 002165
- River Suck Callows SPA, Site Code 004097
- Middle Shannon Callows SPA, Site Code 004096
- Lough Derg Shannon SPA, Site Code 004058
- River Shannon and River Fergus Estuaries SPA, Site Code 004077

I am satisfied that the potential for impacts on the aforementioned Natura 2000 sites can be excluded at the preliminary stage due to the separation distances between the European sites and the proposed development site, the nature and scale of the proposed development and the nature of intervening development.

The qualifying interests for the closest designated sites is identified in Table 1 below.

**Table 1: Natura 2000 sites**

European Site Site Code	List of Qualifying interest /Special conservation Interest	Distance from proposed development  (Km)	Connections (source, pathway receptor)	Considered further in screening  Y/N
Lough Forbes Complex SAC  Site Code 001818	Natural eutrophic lakes with Magnopotamion or Hydrocharition-type vegetation, Active raised bogs, Degraded raised bogs still capable of natural regeneration, Depressions on peat substrates of the Rhynchosporion and Alluvial forests with Alnus glutinosa and Fraxinus excelsior	21km	Hydrological connection via the Upper River Shannon	Y
Lough Ree SAC Site Code 000440	Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation, Semi-natural dry grasslands and scrubland facies on calcareous substrates, Active raised bogs, Degraded raised bogs still capable of natural regeneration, Alkaline fens, Limestone pavements, Bog woodland, Alluvial forests with Alnus glutinosa and Fraxinus excelsior and Lutra lutra (Otter).	29.5km	Hydrological connection via the Upper River Shannon	Y

Ballykenny-Fisherstown Bog SPA Site Code: 004101	Greenland White-fronted Goose	21km	Hydrological connection via the Upper River Shannon	Y
Lough Ree SPA Site Code: 004064	Little Grebe, Whooper Swan, Wigeon, Teal, Mallard, Shoveler Tufted Duck, Common Scoter Goldeneye, Coot, Golden Plover, Lapwing, Common Tern Wetlands and Waterbirds	29.5km	Hydrological connection via the Upper River Shannon	Y

#### 7.9.4. Identification of likely effects

Section 3.3 of the applicants Screening assessment relates to the identification of potential impacts. The applicant's report outlines that the site development will not be carried out within any designated SAC or SPA site, lead to habitat loss, land-take or fragmentation of habitats. Furthermore, there will be no interference with boundaries of any designated area.

The following potential impact is identified:

- Lateral and downhill movement of contaminated surface waters from the proposed development site may enter the Upper Shannon River, potentially leading to a deterioration of water quality in designated areas downstream.

In terms of waste water treatment, I note that the Natura Impact Report of the RSES for the Northern and Western Region identifies that the Carrick on Shannon Waste Water Treatment Plant has a load collection of 7,253 and a design capacity of 11,500 population equivalent (P.E.). The report outlines that *"the facility is well within design capacity of 11,500 pe and is passing compliance standards; therefore no*

*immediate concerns are evident*". This indicates that there is sufficient capacity within the existing WWTP to treat the additional loading from the proposed development.

#### 7.9.5. Screening Determination

The applicant's Screening conclusion outlines that:

*"The proposed project is not directly connected with or necessary to the nature conservation management of the designated site. It is uncertain whether the proposed project has the potential to have significant effect on the Natura 2000 sites that are hydrologically connected via the River Shannon. Therefore, following consideration of the location and site characteristics of the proposed development and potential impacts that may occur, this project should proceed to the next stage of Appropriate Assessment, namely the Natura Impact Assessment"*.

Section 6 of the applicants NIS concludes that with proper and enforced mitigation and with due regard and care for the natural heritage of the surrounding area, that the proposed development of a 41 unit housing estate and associated site works at Priors Point, Carrick on Shannon, Co. Leitrim will have no significant impacts (direct, indirect or cumulative) upon Natura 2000 sites hydrologically connected via the River Shannon.

Having reviewed the documents provided, I note that whilst mitigation measures are proposed by the NIS, they are not a direct response to identified potential significant effects on any European site. In this instance, I consider that the pollution prevention and waste management measures that are set out in the NIS and the Construction Environmental Management Plan are relatively standard construction methods/measures for works in the vicinity of watercourses, similar to those set out, for example, in the IFI 'Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters, 2016'. Such measures should therefore be utilised as a matter of good practice, given the presence of a nearby watercourse, regardless of the presence of a designated site downstream.

Moreover, I am satisfied that the measures, which are not site-specific, are not intended to avoid or reduce a potential significant effect on a European site.

I also have regard to the following characteristics of the site as detailed in Section 4.3 of the applicants Natura Impact Statement:

- The site is zoned as “Riverside Development” and a number of housing units currently exist on site. The proposed housing units are largely located away from the River Shannon banks. No interference will occur to the river banks, or bank vegetation.
- The site is currently connected to the town sewer. The existing pumping station on site is proposed to be upgraded to appropriately accommodate increased wastewater volumes arising from the new housing units. No wastewater treatment will occur on-site.
- There exists significant set back from the River Shannon bank as green open spaces and pockets of semi-natural vegetation. No development will occur within know flood risk zones.
- Any surface waters entering nearby drains and ultimately entering the River Shannon will undergo extensive dilution before reaching Natura 2000 sites downstream. Existing treelines and hedgerows will be retained and are an important nutrient and sediment buffers.
- An existing walkway along the river bank will be retained and extended to the proposed site.

The Natura Impact Statement was prepared by the applicant on the basis that *“it is uncertain whether the proposed project has the potential to have a significant effect on the Natura 2000 sites that are hydrologically connected via the River Shannon”*. However, having regard to the nature and extent of the proposed development and its distance from designated Natura 2000 sites and the nature of measures proposed I consider that there are no individual elements of the proposed project that are likely to give rise to significant effects on the designated Natura 2000 sites downstream of the River Shannon.

Although a source-pathway-receptor linkage exists between the application site and the designated habitats of the Lough Forbes Complex SAC001818, Lough Ree SAC 000440, Ballykenny-Fisherstown Bog SPA Site Code: 004101 and Lough Ree SPA

004064 in this instance, given the scale of the proposed development, I consider the downstream distance of over 20km is sufficient to ensure that no impacts will arise.

The appeal outlines that Otters have been detected at Priors Point. Otter is a qualifying interest of the Lough Ree SAC and a number of other Natura 2000 sites further downstream of the Shannon. The report prepared by Environmental Services Consultancy in conjunction with the appeal response outlines that no evidence of Otter activity was observed on site. The report outlines that the riparian zone does not form part of the development zone and the riparian zone and existing tree line will not be interfered with. Having regard to the nature of development within the immediate vicinity of the site including a marina and residential development and the nature and scale of the proposed development I do not consider that the proposed development is likely to result in a significant impact to the otter population of designated SAC's.

As there are no impacts to the SAC or SPA arising as a result of this development, there is no potential for cumulative impacts. There are no likely impacts arising from the proposed development on Natura 2000 sites and therefore cumulative impacts with other projects will not occur.

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans and projects would not be likely to give rise to significant effects on European sites Lough Forbes Complex SAC 001818, Lough Ree SAC 000440, Ballykenny-Fisherstown Bog SPA Site Code: 004101 and Lough Ree SPA 004064 any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore not required.

## **8.0 Recommendation**

8.1. I recommend that permission be granted subject to conditions.

## 9.0 Reasons and Considerations

Having regard to the location of the site on a brownfield site within an existing residential development close to Carrick on Shannon town centre, the residential zoning objective for the site, national and local policy objectives which support the redevelopment of brownfield/infill sites, the pattern of development in the area and the nature and scale of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the residential or visual amenities of the area and would be acceptable in terms of the safety and convenience of pedestrians and road users and would not constitute a 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 further plans and particulars received on the 11<sup>th</sup> of February 2021 except as may otherwise be required in order to comply with the following conditions.</p> <p>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>Prior to the commencement of development details of the materials, colours and textures of all the external finishes to the proposed buildings, surface materials and public realm finishes shall be submitted for written agreement of the planning authority.</p> <p>Reason: In the interest of visual amenity.</p>

3.	<p>The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To ensure a satisfactory completion and maintenance of the development in the interests of residential amenity.</p>
4.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
5.	<p>A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.</p> <p>Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles</p>
6.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.</p>

	Reason: In the interests of amenity and public safety.
7.	<p>The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply in all respects with the standards set out in the Design Manual for Urban Roads and Streets (DMURS).</p> <p>Reason: In the interests of pedestrian and traffic safety.</p>
8.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
9.	<p>Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
10.	<p>The applicant shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
11.	<p>The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.</p> <p>Reason: To ensure the timely provision of services, for the benefit of existing residents and the occupants of the proposed dwellings.</p>
12.	<p>(a) Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority pursuant to Section 47 of the Planning and Development Act 2000, that restricts any such residential units permitted (the number and location of each housing unit being specified in such agreement), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex</p>

	<p>units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.</p> <p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
13.	<p>The construction and demolition of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of work, noise and dust management measures, a Traffic Management Plan, details of disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
14.	<p>The development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed</p>

	<p>in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.</p> <p>Reason: In the interest of sustainable waste management.</p>
15.	<p>Prior to commencement of development, the applicant 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, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</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>
16.	<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 of roads, footpaths, watermains, drains, open space 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 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 of the development.</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 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>
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Stephanie Farrington  
Senior Planning Inspector

14<sup>th</sup> of April 2022