



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311212-21

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<b>Development</b>	Construction of 3 dwellings and widening of public road.
<b>Location</b>	Attirory Td, Carrick on Shannon , Co. Leitrim
<b>Planning Authority</b>	Leitrim County Council
<b>Planning Authority Reg. Ref.</b>	20146
<b>Applicant(s)</b>	Mary Maguire.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Mary Maguire.
<b>Observer(s)</b>	N/A.
<b>Date of Site Inspection</b>	10 <sup>th</sup> of March 2022.
<b>Inspector</b>	Stephanie Farrington

## 1.0 Site Location and Description

- 1.1. The appeal site is rectangular in shape, has a stated area of 0.24 ha, and is located along the L3655-0. The site is primarily greenfield and slopes in an easterly direction. There are a number of sheds/outbuildings located along the north-western boundary of the site. Site boundaries include tree line ditches to the east, south and west. The site is adjoined by existing low density residential development to the north and south. The L3655-0 forms the eastern boundary of the site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 3 no. detached, storey and a half dwelling houses (area 165m<sup>2</sup> each). The development includes removal of roadside hedge to accommodate widening of public road and provision of new footpath, public lighting, boundary wall, upgrading of existing vehicular, plus all associated site development works including hard and soft landscaping and connection to services all on land previously granted planning permission ref:08/141 & 09/65.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Leitrim County Council issued a notification of decision to refuse permission for the development in accordance with the following reasons and considerations:

*“Having regard to the location of the proposed development within the constraint for Recorded Monuments LE031-039 Church Site which is subject to statutory protection in the Record of Monuments and Places, established under section 12 of the National Monuments (Amendment) Act 1994, the development of which will involve groundworks in an area where pre-development archaeological excavations and testing have identified significant archaeological remains, it is considered that the proposed development will directly impact the ecclesiastical enclosing ditch and will have detrimental impact upon the internal features identified during testing and as such would injure or interfere with a Recorded Monument, which would be*

*contrary to Policies and Objectives in the County Development Plan 2015-2021 (Policy 106, Objective 93 and 95) and the Carrick on Shannon Local Area Plan 2010-2019 (Policy 11.3f and Objective 11.4d) to protect such sites and to ensure their continued preservation”.*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

#### *Initial Planner’s Report (2/11/2020)*

The initial planner’s report recommends a request for further information. The following provides a summary of the main points raised:

- Reference is made to the planning history pertaining to the site and the work proposed under the withdrawn application pertaining to the site PA Ref: 18/133. The report outlines that the applicant should be requested to submit full details of their landholding and include provision for a footpath and public lighting.
- The density of the development at 3 dwellings on a 0.2ha site falls within the range of 15-20 dwellings per ha identified within the Guidelines for Planning Authorities on Sustainable Residential Development.
- In terms of layout, the proposal reflects that permitted under PA Ref: 18/133. This application was withdrawn prior to a decision being made.
- A justification test is not required having regard to the limited scale of the development.
- An archaeological testing report was submitted proposed under P18/133 in response to a request for further information. This application was withdrawn prior to issue of decision.
- Private open space is provided in accordance with LAP standards. The non-provision of public open space is considered acceptable in this instance given the small scale of the development.
- A request for further information is recommended in relation to the following:

- Further archaeological testing on foot of the results of the archaeological report.
- Revised site layout illustrating the full extent of landownership and the provision of a footpath and public lighting along the site boundary.
- Further details on surface water disposal.

Planner's Report (27/07/2021)

- While the application site boundary has been extended the site layout does not extend to include work along the public road. The FI response outlines that proposals for this area would need to be subject to a separate application and archaeological testing. While this is not sufficient to ensure ease of pedestrian movement to and from the site, the matter is not relevant in light of archaeological concerns outlined.
- The report outlines that further archaeological testing was undertaken by the applicant in response to the FI request. Reference is made to the submission on the FI response from the DAU in the Department of Culture, Heritage and the Gaeltacht. This outlines that the development would be contrary to the Framework and Principles for the Protection of Archaeological Heritage (Section 3.4) and Policy 106 and Objectives 93 and 95 of the Leitrim County Development Plan 2015-2021.
- The report recommends that permission is refused for the development in line with the planning authority's decision.

3.2.2. Other Technical Reports

South Leitrim Area Office Planning Report, District Engineers Report: (19/10/2020)

- Recommends a request for further information in relation to surface water drainage and storm water run off details.

Fire Officer (27/10/2020)

- No objection.

Water Service-Wastewater (16/10/2020)

- Pre connection enquiry from Irish Water.

Enforcement Officer -Taking in Charge Section (21/10/2020)

- No objection subject to condition.

National Roads Design Office (06/11/2020)

- The development is located within the constraints study area for the N4 Carrick on Shannon to Dromod Project. Having regard to the infill location of the site in a residential settlement, it is highly unlikely that the project will impact this particular area.

South Leitrim Area Office Planning Report (26/07/2021)

- No objection subject to condition.

### 3.3. **Prescribed Bodies**

Development Applications Unit (19/10/2020)

- A request for further information is recommended requiring further archaeological investigation.
- The report outlines that a refusal may be recommended in the event that significant archaeological remains are found.

Development Applications Unit (27/07/2020)

- Recommends a refusal of permission. The following provides a summary of the points raised:
  - Reference is made to the archaeological testing undertaken on site in January 2019 and May 2021. The topsoil stripping undertaken in May 2021 uncovered the full extent of a substantial archaeological ditch enclosure measuring 33m in length and a width ranging from 3.1 to 3.5m. Additional hand digging confirmed the presence of a ditch enclosure.
  - In light of the above it is considered that the proposed development will directly impact on the ecclesiastical enclosing ditch and will have detrimental impact upon the internal features identified during testing. It is the policy of the Department that *“preservation in situ will always be the first option to be considered”*.

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

None.

## 4.0 **Planning History**

PA Ref. 08/141: Permission granted by LCC in April 2008 to construct a 490 m<sup>2</sup> stand-alone building to be operated as a Creche with after school care plus carry out all associated site development works including provision of foot paths and lighting, form new vehicular access, provision of ancillary car-parking with set down area and connect to existing public services.

The decision of the Council to grant permission for the development was subject to 14 no. conditions. Condition no. 4 relates to pre-development archaeological testing prior to the commencement of development.

PA Ref. 09/65: Outline planning permission granted by LCC in November 2009 for construction of two detached dwellings on site and all associated site development works including provision of footpaths and lighting, form new vehicular access and connect to existing public services. The decision of the planning authority to grant permission was subject to 14 no. conditions. Condition no. 6 related to pre-development archaeological testing on site.

PA Ref: 18/133: An application to construction 3 no. houses on site was withdrawn in July 2019.

## 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 was on public display until the 27th of April 2022.

*Zoning*

- 5.1.3. The appeal site is zoned for “Primarily Residential” purposes within the LAP. The Development Plan sets out the following guidance in respect of this zoning objective:

*“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”.*

- 5.1.4. Dwelling is listed as a use which is acceptable in principle on lands zoned for “Primarily Residential” purposes.

*Archaeological Heritage*

- 5.1.5. Map no. 6 of the LAP identifies Recorded Monuments within Carrick on Shannon. The map illustrates that the site is located within and adjacent to Recorded Monument site LE031-39 “Church Site”.

- 5.1.6. Section 2.11.02 of the LAP relates to Archaeological heritage. The LAP outlines that in securing the preservation of archaeological monuments the Planning Authority will refer all planning applications likely to interfere with archaeological heritage to the Development Applications Unit (Heritage & Planning Division) of the DoEHLG, An Taisce and the Heritage Council. The Planning Authority will have regard to the advice and recommendations given, both in respect of whether or not to grant planning permission and in respect of the conditions to which permission, if granted, should be subject. The LAP refers to the Leitrim County Development Plan for further guidance and information relating to archaeological heritage, policies and objectives.

- 5.1.7. The following policies and objectives of the LAP are of relevance:

- Policy 11.3f: It is the policy of the Council to protect the Recorded Monuments, located within Carrick on Shannon, from damage (See Map No. 6).

- Objective 11.4d: It is an objective of the Council to seek the preservation (in situ, or as a minimum, preservation by record) of: all archaeological monuments included in the Record of Monuments as established under Section 12 of the National Monuments (Amendment) Act, 1994 and sites and features of historical and archaeological interest.
- Objective 11.4e: It is an objective of the Council to require, where appropriate, that an archaeological assessment be carried out by a suitably qualified person prior to the commencement of any activity that may impact upon archaeological heritage.
- Objective 11.4f: It is an objective of the Council to ensure that any development either above or below ground, within the vicinity of a site of archaeological interest shall not be detrimental to the character of the archaeological site or its setting

#### *Development Management*

5.1.8. Residential Design Standards are set out within Section 3.02 of the LAP. The following are of relevance to the development:

- 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.

*Leitrim County Development Plan 2015-2021 (as extended)*

- 5.1.9. Section 4.9.7 of the LCDP relates to archaeological heritage. This outlines that sites and monuments of archaeological significance are recorded in the Record of Monuments and Places (RMP). Each monument is encircled by a zone of archaeological potential. The duties of the owner of a recorded monument are detailed in the National Monuments (Amendment) Act 1994. It should be noted that any direct impacts on national monuments in State or Local Authority care or subject to a preservation order will require the consent of the Minister for the Environment, Heritage and Local Government under Section 14 of the National Monuments Act 1930 as amended by Section 5 of the National Monuments (Amendment) Act 2004.
- 5.1.10. The Development Plan outlines that the Council will also have regard to the guidance document Framework and Principles for the Protection of the Archaeological Heritage, as published by the Department of Arts, Heritage, Gaeltacht and the Islands in 1999.
- 5.1.11. The following policies and objectives of the CDP are of relevance:
- Policy 106: It is the policy of the Council to secure the preservation (i.e. preservation in- situ or in particular circumstances where the Council is satisfied that this is not possible, preservation by record as a minimum) of all archaeological remains and sites of importance such as National Monuments, Recorded Monuments, their setting and context.
  - Objective 93: It is an objective of the Council to ensure that any development (above or below ground), within the vicinity of a site of archaeological interest shall not be detrimental to the character of the archaeological site or its setting.

- Objective 94: It is an objective of the Council to require, where appropriate, that an archaeological assessment be carried out by a suitably qualified person prior to the commencement of any activity that may impact upon the archaeological heritage.
- Objective 95 It is an objective of the Council to protect the zones of archaeological potential, as identified in the Record of Monuments and Places.

## 5.2. Leitrim County Council Record of Monuments and Places

5.2.1. The following sites are listed on the Record of Monuments and Places in the vicinity of the appeal site.

- LE031-039001-Church

*Description: Located at the top of a prominent drumlin with a N-S section of the River Shannon c. 300m to the W. There is no evidence of a church structure at the ecclesiastical enclosure (LE031-039003-). Nor has any early saint been identified as associated with it (Ó Riain 2011), but the ecclesiastical enclosure at Attirory (LE031-039003-) is undoubtedly the site of an early monastery and the bullaun stone (LE031-039002-) helps to confirm it.*

- LE031-039002- Bullaun stone

*Description: Located at the top of a prominent drumlin with a N-S section of the River Shannon c. 300m top the W. This is a D-shaped bullaun stone (dims 0.8m x 0.5m; H 0.5m) with a single basin (diam. 0.32m; D 0.16m) worn down at one side which had been at a nearby house in 1977 (SMR file). It became incorporated into the road bank but was rediscovered in excavation (Delaney 2015, 2).*

- LE031-039003-Class: Ecclesiastical enclosure

*Description: Located towards the top of a prominent drumlin. The burial ground (LE031-039----) is at the centre of a grass-covered circular earthen enclosure (diam. c. 150m) defined by an earthen bank that is best preserved at NW (Wth of base 3.5m; H 0.65m) with a slight external fosse (Wth 2.5m), but it is reduced to a scarp (max. H 1m E-SE) over much of the perimeter elsewhere. There is no evidence of a church (LE031-039001-), but there is a burial ground (LE031-039001-) within the enclosure where the bullaun stone (LE031-039002-) was re-discovered.*

Archaeological testing (03E1788) c. 40m to the NNE of the perimeter at the closest point produced no related material (Read 2006), but archaeological testing (18E0707) in the SW quadrant identified a ditch (Wth 4-7m) on the line of the perimeter. Other features in this area were post-holes and pits containing animal bones and metal slag, suggesting that this part of the enclosure was devoted to industrial activity (McHugh 2019; *exavations.ie* 2019:075). The area was completely stripped in May 2020 under the same licence (McHugh 2021), revealing the ditch (L 33m; Wth of top 3.1-3.5m; D 0.65m plus) with three upper fills of clay with stones. The development site was subsequently back-filled, the fosse being preserved beneath a geotextile protective layer.

- LE031-039: Burial ground

*Description:* Located at the top of a prominent drumlin, with a N-S section of the River Shannon c. 300m to the W. A rectangular hachured feature is designated as 'Caldragh', which is the Irish word for burial ground, only on the 1945 revision of the OS 6-inch map. This is a grass-covered rectangular platform (dims c. 80m NW-SE c. 60m NE-SW) defined by a slight bank (Wth 3m; H 0.1m) at SW, a scarp (Wth 3.7m; H 0.45m) at SE and a slight bank (Wth 5.3m; H 0.1-0.2m) at NE. There is no surface evidence of burial or any record of burial. The interior is bisected by a NE-SW road and its perimeter cannot be detected NW of this feature. There is no evidence of a church (LE031-039001-), but there is a bullaun stone (LE031-039002-) and the burial ground is within the large ecclesiastical enclosure (LE031-039003-).

Archaeological monitoring and excavation (15E0453) on the line of the NW road bank encountered six burials (595098, 798912) and what might have been a gravemarker with other disturbed bones overlying archaeological features, including a ditch that could have formed the N and W boundary of a burial ground, along with a possible hearth. The bullaun stone (dims 0.8m X 0.5m; H 0.5m) with a single basin (diam. 0.32m; D 0.16m) worn down at one side, which had been at a nearby house in 1977 (SMR file) had become incorporated into the road bank but was rediscovered (Delaney 2015). Further testing (18E0707) in the SW quadrant of the ecclesiastical enclosure identified a ditch (Wth 4-7m) on the line of its perimeter. Other features in this area were post-holes and pits containing animal bones and slag suggesting that this part of the enclosure was devoted to industrial activity (McHugh 2019). See: *Exavations.ie* 2019:075, accessed on 10/01/2020.

### 5.3. Statutory Provisions and Other Guidance

- *The National Monuments Acts 1930-2004*
- *Planning and Development Act 2000*
- *Framework and Principles for the Protection of Archaeological Heritage 1999*

Part III sets out principles for the protection of archaeological heritage in the context of development. This outlines that “*whenever the archaeological heritage is affected, or proposed to be affected, by development the approach to be followed must be preservation in-situ or preservation by record through archaeological excavation and recording*”.

Section 3.4 outlines that there should always be a presumption in favour of avoiding developmental impacts on the archaeological heritage. Preservation in situ must always be the first option to be considered rather than preservation by record in order to allow development to proceed, and preservation in-situ must also be presumed to be the preferred option.

When considering requests for authorisation or approval to undertake development which would involve the removal of archaeological sites and monuments (or portions of such), or before proposing to carry out such development, relevant bodies and authorities should satisfy themselves that the development

- (i) cannot be re-located,
- (ii) cannot be re-designed to avoid removal of the site or monument (or portions of such),
- (iii) is really necessary.

Section 3.5 relates to preservation by record. This outlines that where archaeological sites or monuments (or portions of such) are to be removed due to development then it is essential that the approach of preservation by record be applied. Preservation by record requires that appropriate archaeological excavation and recording is carried out which ensures that, as a minimum, a complete and meaningful record is preserved of all archaeological deposits, features and information likely to be

damaged as a result of the development. Such archaeological excavation to mitigate the impact of development is known as rescue excavation.

#### **5.4. Natural Heritage Designations**

None.

#### **5.5. EIA Screening**

Having regard to the nature and scale of the proposed development, the nature of the receiving environment, a serviced urban location, and the proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. The application is accompanied by an Archaeological Assessment which addresses the archaeological potential of the site.

### **6.0 The Appeal**

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

A first party appeal was received in respect of Leitrim County Council's notification of decision to refuse permission for the development. The following provides a summary of the grounds of appeal:

- The site is zoned for "Primarily Residential" purposes within the Carrick on Shannon LAP.
- The only reason for refusal relates to the archaeological interest of the site. No archaeology is considered to be present in the western most two thirds of the site.
- In all aspects, other than archaeology, the proposal was deemed to be in accordance with the standards, policies and objectives of the Carrick on Shannon LAP.
- No observations were lodged in respect of the application.

- Leitrim County Council's reason for refusal reflects the representation on the application from the Development Application Unit of the Minister for Culture, Heritage and the Gaeltacht. The submission relates to the potential impact of the proposed development on the archaeology of a varying 3.1m-3.5m wide ditch which is present in the eastern third of the site and abuts the public road.
- Reference is made to Objective 11.4d of the LAP which outlines that archaeology could be addressed by mitigation and preservation in situ, or as a minimum, preservation by record. Such consideration appears not to have been afforded. Reference is made to this option within the reasoning set out within the submission by the DAU as follows: To ensure the continued preservation, (either in situ-or by record) of places, caves, sites, features, other items of archaeological interest. This was not explored or considered by Leitrim County Council.
- The appeal refers to wider considerations of the proposal which were not fully assessed by the planning authority.
- The development includes a proposal to cede land to LCC for the purposes of road widening, footpath and street lighting works. Such works are necessary to afford safe passage of pedestrians to the residential development to the south of the site at Glas na hAbhainn. The application would facilitate pedestrian improvement works linking the area to Carrick on Shannon.
- The pedestrian environment in the vicinity of the site is currently dangerous. The lack of lighting exacerbates the risk.
- The proposal would also result in improvements for cyclists and Industrial Vehicles.
- Reference is made to the planning history pertaining to the site wherein permission was granted for development.
- The proposal addresses residential need and represents an efficient use of zoned residential lands.
- The need to protect archaeological interest needs to be balanced against pedestrian and vehicular safety consideration, residential need and environmental and sustainability considerations.

- The appeal sets out the archaeological context of the site. The nature of archaeological material present on the site including “*a series of postholes and pits containing animal bone and slag of iron slag*” would be classified as of “*lower order interest with limited archaeological or other value*”.
- The site is located within an urban setting on zoned infill development land and already sectioned off by the presence of a roadway. The archaeological elements identified on site are not uncommon, are essentially primitive and low-tech in nature. It is considered that the development of the site subject to stipulation of archaeological mitigation measures and archaeological recording by way of condition be the appropriate response.
- The Framework and Principles for the protection of Archaeological Heritage make provision in certain circumstances for Preservation by Record.
- The planning gain associated with the proposed road widening and provision of a footpath is identified.
- A full record of the archaeological potential of the site can be addressed by means of condition.

## 6.2. Planning Authority Response

Leitrim County Council provided a response to the grounds of appeal. The following provides a summary of the points raised:

- The option of addressing archaeological concerns “by mitigation and preservation in situ or as a minimum preservation by record” was not put forward as an option having regard to the contents of the report received by the DAU on 26/07/2021.
- It is the experience of LCC that if the DAU considered that archaeological concerns could have been addressed by means of submission then the report would have recommended the inclusion of relevant conditions.
- The rationale for the planning authority’s decision is clearly stated in the planner’s report. The decision seeks the protection of the Recorded Monument in accordance with the policies and objectives of the Leitrim County Development Plan.

- The submission in relation to “wider considerations” is noted. The planning gain associated with the provision of improved pedestrian facilities is accepted. No detailed proposals for these works were provided in response to LCC’s request for further information.
- The Planning Authority is satisfied that it has assessed the proposed development in a most comprehensive manner and considered all the relevant issues and report received. The PA recommends that An Bord Pleanála upholds the decision of LCC to refuse permission for the development in the interests of protection and preservation of Recorded Monument LE031-039.

## 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 Development
- Archaeology
- Appropriate Assessment

### 7.2. **Principle of Development**

7.2.1. The appeal site is zoned for “Primarily Residential” purposes within the Carrick on Shannon Local Area Plan. Dwelling is listed as a use which is acceptable in principle under this zoning objective. The principle of the proposed use is therefore considered acceptable subject to design and layout considerations and compliance with the various provisions and designations of the Carrick on Shannon Local Area Plan 2010-2019 and Leitrim County Development Plan 2015-2021.

### 7.3. **Archaeology**

7.3.1. The appeal site is located within the vicinity of and within the Zone of Archaeological potential for a designated recorded archaeological monument –LE031-039 Church Site as identified within Map 6 of the Carrick on Shannon Local Area Plan 2010-



2019. The location of the RMP's within the vicinity of the site and the extent of the zone of archaeological potential is identified within the attached presentation document.

7.3.2. The policies and objectives of the Leitrim County Development Plan 2015-21021 and the Carrick on Shannon Local Area Plan 2010-2019 support the protection and preservation of archaeological monuments identified within the Record of Protected Monuments. The following policies and objectives are of relevance in this instance:

- Policy 106 and Objective 93 and Objective 95 of the Leitrim County Development Plan 2015-2021.
- Policy 11.3f and Objective 11.4d of the Carrick on Shannon Local Area Plan 2010-2019.

7.3.3. Leitrim County Council's reason for refusal refers to the location of the appeal within a zone of archaeological potential for RMP site LE032-039 and outlines that pre-development archaeological testing have identified significant archaeological remains on the site of the proposed development and the proposal would directly impact on the ecclesiastical enclosing ditch and internal features identified during testing. It is stated that the proposal is contrary to Policy 106 and Objectives 93 and 95 of the Leitrim County Development Plan 2015-2021 and Policy 11.3f and Objective 11.4d of the Carrick on Shannon Local Area Plan which seek to protect such sites and ensure their continued preservation. The decision of the planning authority to refuse permission for the development reflected the submission on file from the Department of Culture, Heritage and the Gaeltacht.

7.3.4. An Archaeological Assessment prepared by Fado Archaeology was submitted in support of the application. This identifies that Archaeological testing took place on site in January 2019 and features of archaeological significance were identified in the east and north-east area of the site. This included two sections of a possible ditch- the continuation of the enclosing element of the ecclesiastical site RMP No. LE031-039-039003. Other features identified on site included a series of postholes and pits of various forms, animal bone and slag. The report outlines that a portion of the site appears to have been part of the ecclesiastical complex of Attirory. The report recommends that archaeological mitigation, excavation or preservation in situ be conducted by a suitably qualified archaeologist.

- 7.3.5. On foot of the submission from the Development Applications Unit (DAU) Leitrim County Council issued a request for further information requesting further archaeological investigation on site which identifies the full extent of the archaeologically sensitive area prior to any planning decision being made. Further consultation was also recommended with the DAU of the Department of Culture, Heritage and the Gaeltacht.
- 7.3.6. The applicant's response to the request for further information includes an Archaeological Test Report dated June 2021 prepared by Fado Archaeology. Section 7 of the report identifies the Results Phase 2 Archaeological Testing which was undertaken in response to Leitrim County Council's request for further information. The report identifies that the entire site was mechanically stripped of overlying soil to reveal the full extent of the ditch and any additional features which may exist outside the portion of ecclesiastical enclosure that had been identified in the north-eastern area of the development site. The full extent of the ditch was identified by topsoil stripping of 33m in length and ranging from 3.1m to 3.5 m in width. The test trenching confirmed that the archaeological remains occur in the north-eastern and eastern areas of the site. The location of the ditch is identified within Figure 12 of the report. No archaeological material was identified in the south and west of the site.
- 7.3.7. The applicants archaeological report recommends that the site be subject to a programme of archaeological mitigation with provision being made for full recording, preservation in situ or excavation of any archaeological features or deposits which may be exposed during the course of future development work at the site.
- 7.3.8. The submission on the applicants FI response from the DAU of the Department of Culture, Heritage and the Gaeltacht outlines that *"it is considered that the proposed development will directly impact on the ecclesiastical enclosing ditch and will have detrimental impact upon the internal features identified during testing"*. It is the policy of the Department that *"preservation in situ will always be the first option to be considered"*. The submission outlines that the development is contrary to the policies and objectives of the Leitrim County Development Plan and the Carrick on Shannon Local Area Plan and recommends that permission is refused for the development. The decision of Leitrim County Council to refuse permission for the development reflects the recommendations of the DAU.

- 7.3.9. The first party appeal outlines that the planning authority's reason for refusal could be addressed by means of a condition. It is stated that the development of the site subject to stipulation of archaeological mitigation measures and archaeological recording by way of condition is the appropriate response. Reference is made to the provisions of Objective 11.4d of the LAP which outlines that archaeology could be addressed by mitigation and preservation in situ, or as a minimum, preservation by record. The appeal outlines that such options were not explored or considered by the planning authority. The appeal outlines that the nature of archaeological material present on the site including *"a series of postholes and pits containing animal bone and slag of iron slag"* would be classified as of *"lower order interest with limited archaeological or other value"*. It is stated that the archaeological elements identified on site are not uncommon, are essentially primitive and low-tech in nature.
- 7.3.10. The appeal outlines that the need to protect archaeological interest needs to be balanced against pedestrian and vehicular safety consideration, residential need and environmental and sustainability considerations. In this regard, it is stated that the site is zoned for residential purposes and the development of infill housing is in accordance with policy objectives which support compact growth. The appeal outlines that the proposal will result in significant planning gain for the area through facilitating the development of pedestrian connection facilitates along the site boundary. Reference is furthermore made to the planning history pertaining to the site wherein the planning permission was granted for development.
- 7.3.11. At the outset, in considering the grounds of appeal I note that the policies and objectives of the Carrick on Shannon LAP 2010-2019 and Leitrim County Development Plan 2015-2021 support the protection and preservation of archaeological monuments identified within the Record of Protected Monuments. The appeal site is partially located within a Zone of Archaeological Potential associated with a Recorded Monument as identified within the Carrick on Shannon LAP. The proposal includes development within the zone of archaeological potential and overlaps with the ecclesiastical ditch identified on site through archaeological testing. In this regard, I do not consider that the layout as proposed addresses the existing site constraints.
- 7.3.12. I acknowledge the points raised by the applicant that the policies and objectives of the Carrick on Shannon LAP and LCDP set out options for the preservation of

archaeological material including preservation by record. I note that such options were considered by the Development Applications Unit and in this particular instance it was stated that the preference was for the maintenance in situ. I refer to the guidance set out within the Framework and Principles for the Protection of Archaeological Heritage 1999 which outlines that preservation in situ must always be the first option to be considered rather than preservation by record in order to allow development to proceed, and preservation in-situ must also be presumed to be the preferred option.

7.3.13. I furthermore refer to the guidance which outlines that when considering requests for authorisation or approval to undertake development which would involve the removal of archaeological sites and monuments (or portions of such), or before proposing to carry out such development, relevant bodies and authorities should satisfy themselves that the development

- cannot be re-located,
- cannot be re-designed to avoid removal of the site or monument (or portions of such),
- is really necessary.

7.3.14. In this particular instance I am not convinced that the development cannot be redesigned to reduce impact through consultation with the relevant authorities. I refer to the planning history pertaining to the site and the reference within the public notices to development permitted under PA Ref 08/141 and PA Ref 09/65. I have reviewed the site layout of these permitted developments and note that the developments permitted under these applications included a set back from the eastern site boundary. Under PA Ref: 08/141 the proposed creche building was set back by 23m from the eastern site boundary and the houses proposed under PA Ref. 09/65 were set back by c.15m.

7.3.15. While the appeal outlines that archaeological testing identified that archaeological remains were confined to certain areas of the site, this is not reflected within the proposed site layout. In this regard I do not consider that the layout responds to existing site constraints. I acknowledge the planning gain associated with the provision of road widening and enhanced pedestrian facilities along the site boundary but consider that this could be delivered as part of a revised site layout.

7.3.16. In conclusion, I consider that the development is contrary to the provisions of the Carrick on Shannon LAP and Leitrim County Development Plan as they relate to Recorded Monuments and recommend that permission should be refused for the development broadly in line with the decision of Leitrim County Council.

#### **7.4. Appropriate Assessment**

7.4.1. An Appropriate Assessment Screening statement is submitted in support of the application. This identifies that there are no Natura 2000 sites within a 15km radius of the appeal site. The assessment concludes that the development would not have an impact on any Natura 2000 sites.

7.4.2. The planner's report which informs the decision of Leitrim County Council to refuse permission for the development outlines that: *"The Planning Authority is satisfied that the proposed development does not require to be progressed through to Stage II Appropriate Assessment under the Habitats Directive.*

7.4.3. Given the nature and scale of the development, the public wastewater infrastructure serving the site and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

### **8.0 Recommendation**

8.1. I recommend that permission is refused for the development in accordance with the following reasons and considerations.

### **9.0 Reasons and Considerations**

Having regard to the location of the proposed development within the constraint for Recorded Monuments LE031-039 Church Site which is subject to statutory protection in the Record of Monuments and Places, established under section 12 of the National Monuments (Amendment) Act 1994, the development of which will involve groundworks in an area where archaeological excavations and testing have identified significant archaeological remains, it is considered that the proposed

development will directly impact the ecclesiastical enclosing ditch and will have detrimental impact upon the internal features identified during testing and as such would injure or interfere with a Recorded Monument, which would be contrary to Policies and Objectives in the County Development Plan 2015-2021 (Policy 106, Objective 93 and 95) and the Carrick on Shannon Local Area Plan 2010-2019 (Policy 11.3f and Objective 11.4d) to protect such sites and to ensure their continued preservation. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Stephanie Farrington  
Senior Planning Inspector

24<sup>th</sup> of May 2022