



An
Bord
Pleanála

Inspector's Report

ABP-312524-22

Development	50 houses with associated site development works. This application includes a Natura Impact Statement (NIS).
Location	Baunoge, Loughrea, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	211958
Applicant	Jardonelle Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant	Jardonelle Ltd.
Observer	Elaine Gough
Date of Site Inspection	25 th May 2022
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Baunoge, c. 0.7 km east from the centre of Loughrea. The appeal site has a stated area of 2.85 ha. and is irregular in shape.
- 1.2. The appeal site is located to the immediate east of an existing residential development 'Baunoge', a recently constructed development of two storey detached and semi-detached houses. Part of the eastern relief road (required under Objective TI15a of the Loughrea LAP) bisects the Baunoge development. This partially constructed road currently connects to the roundabout to the south-west of the appeal side and terminates at the western boundary of the site. Under the Loughrea LAP, this road/street is to connect to the R446, north-east of the appeal site.
- 1.3. The appeal site falls steeply from north to south. Topographical levels are indicated as 108.5 metres (OD Malin) to the north of the site and c. 93 metres (OD Malin) to the south of the site, a level differential of 15.5 metres over c. 225 metres (i.e. a slope of c. 1:15).
- 1.4. An agricultural shed is located at the northern boundary of appeal site, outside the appeal site. A stand of mature Beech trees form part of the western boundary of the appeal site. There is a prominent retaining wall to the north-west of the site, forming the boundary between No.'s 32 and 33 Baunoge and the appeal site. The lands to the south of the appeal site are currently under construction (ABP Ref. 312017-21 & PA Ref. 21/164 refers).
- 1.5. The Knockanima Stream, which is partially culverted, is located to the south of, and outside the appeal site. Knockanima Stream discharges to St. Claren River, at a location c. 50 metres north-east of Lough Rea.

2.0 Proposed Development

- 2.1. The proposed development comprises;
 - 50 no. houses (44 no. 4 bedroom, semi-detached units and 6 no. 4 bedroom detached units). Material finishes to the houses comprise nap plaster and natural stone cladding for the external walls and blue/black roof tiles.
 - Associated site works and connection to existing services.

Based on the plans and particulars submitted with the planning application I note that the proposed development also comprises;

- Public open space.
- Landscaping.
- Removal of existing concrete boundary wall at western site boundary.
- Internal road network.

2.2 The planning application was accompanied by the following reports/studies;

- Design Statement (dated 8th October 2021)
- Appropriate Assessment Screening Report (dated October 2021)
- NIS (dated October 2021)
- Landscape Design Statement (dated September 2021)
- Construction and Demolition Waste Management Plan (dated 26th September 2021)
- Flood Risk Assessment (Dated Nov/Dec 2018, Rev 1 Dec 2020 and Rev 2 Oct 2021)
- SuDs for Proposed Development (dated 10th September 2021)
- ByPass Petrol Interceptor Installation and Maintenance Guide (Trade Literature)
- Irish Water Pre-Connection Enquiry Form – confirming that both water and wastewater connections are feasible without infrastructure upgrade by Irish Water. A possible constraint is noted in relation to wastewater, specifically in relation to a slack sewer on Bridge Street where the main sewer line crosses the bridge.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to **Refuse** Permission on the 14th December 2021 for 4 no. reasons which can be summarised as follows;

1. The proposed development is substandard in its design and layout and fails to provide high quality usable open spaces. The proposed roads layout is contrary to DMURS. The proposal fails to adequately address the site's topography, resulting in a visually prominent development which would seriously injure the visual amenities of the area. The proposed development would be contrary to Objectives UD1, RD2 and RD4 of the Loughrea LAP.
2. In the absence of a road safety audit, in conjunction with a number of concerns identified in respect of sightlines, street design and turning facilities, it is considered that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users.
3. The Planning Authority is not satisfied that the surface water disposal proposal is satisfactory, that the water management measures identified in the SSFRA have been adequately considered in the NIS or can be carried out, as they relate to lands outside the control of the applicant. The proposed development would therefore be contrary to Objectives FL1, WW7, DS6 of the Galway County Development Plan 2015-2021.
4. The Planning Authority is not satisfied that adequate proposals for the discharge of the applicant's obligations under Section 96 of the Planning and Development Act 2000, as amended, and the Urban Regeneration and Housing Act 2015 have been submitted.

I note that the Notification of Decision to Refuse Permission does not make reference to material contravention of the County Development Plan and as such the provisions of s.37(2)(b) of the Planning and Development Act 2000, as amended, are therefore not applicable in this case.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (dated 13th December 2021) includes the following comments;

- The proposed development accords with the applicable land use zoning(s), complies with the Core Strategy, and is acceptable in terms of density.

- Limited details have been provided in relation to site sections, finished floor levels/eaves levels of adjoining dwellings, and road levels.
- No visual assessment of the proposal has been submitted.
- Given the steep slope of the site, extensive cutting and manipulation of the landscape is proposed, resulting in extensive areas of retaining walls and stepped gardens.
- The proposal is similar to that refused by An Bord Pleanála under Reg. Ref. 18/1860.
- The proposed development is insular; lacks a sense of place; has limited permeability to the existing Baunoge development; is dendritic in its layout; has excessively long straight sections of road; is road dominated to the south of the site, with embankments and retaining structures along the north of the site creating dead spaces that are inaccessible for maintenance.
- The elevated nature of the site and its layout result in a visually prominent development, against a backdrop of agricultural fields.
- There is limited variation in the design of the proposed houses/proposal is monotonous as a result.
- The relief road/street proposal (which is part of the Loughrea LAP) is divorced from the overall development, resulting in a road dominated layout, at the expense of creating a street based development.
- The southernmost area of public open space is at a significant remove from the development. The L shaped area of public open space has limited functionality given its slope.
- A number of the houses have rear gardens which are stepped.
- Regarding the provision of the eastern relief road, required under Objective TI15a of the Loughrea LAP (which is partially provided in the form of a spine road running along the south of the site, connecting to the existing Baunoge estate road), this road appears divorced from the overall development, resulting in an absence of a street based development.

- Details submitted do not satisfy the legislative requirements in relation to Part V of the Planning and Development Act 2000, as amended.
- Regarding Appropriate Assessment, the Planning Authority state that having considered the contents of the planning application, including the SSFRA, the NIS and the submissions received, it is considered that there are outstanding issues in relation to flood risk, waste water management measures and surface water disposal.

3.2.2. Other Technical Reports

Roads and Transport Department (dated 9th December 2021) – Further Information recommended to address the following;

- Road Safety Audit to include details of access/egress, internal access road, swept path analysis, parking, pedestrian facilities and street lighting.
- Road/street design does not comply with DMURS, geometrical road details required including, gradients, crests and sags.
- Sightline details required for all junctions and bends.
- Details of road marking, street lighting, road surfacing and turning facilities for large vehicles required.
- A detailed construction traffic management plan required.

Regarding drainage, Further Information is recommended to address the following;

- Inconsistencies relating to the hydraulic design of the proposed surface water drainage system.
- Revise the surface water and landscape design for the proposal to incorporate nature based SuDS measures.
- The following supporting documentation is required;
 - A report providing detailed discussions regarding the design rationale and including SuDs measures, design assumptions, catchment drawings, sewer design calculations, analysis to demonstrate that the

system can cater for extreme flood events without above ground flooding, greenfield run-off calculation rate and design of flow control;

- Design details (hydraulic and structural) of attenuation and soakaway systems;
- Details of infiltration tests;
- Details of the existing surface water sewer to which it is proposed to discharge to;
- Revisions to surface water sewer network, with appropriate consideration for gully locations and pipe cover depth;
- Details to confirm that petrol interceptors can cater for high seasonal groundwater levels in the low lying areas of the site, and;
- Mitigation measures to prevent infiltration/ingress into the proposed surface water system.

Water Services (dated 30th November 2021) – Irish Water have provided Confirmation of Feasibility. There appears to be adequate pressures to supply the proposed development. The proposal appears to be connecting to existing watermain which is not in charge by Irish Water, this may be operated by the adjacent development and as such the applicant would be required to demonstrate appropriate consent for same.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

1 no. observation was received by the Planning Authority. The following is a summary of the main issues raised in the third-party observation:

- Visual impact concerns/proposal will visually dominate adjacent development (Baunoge).
- Design of the proposed development is different to adjacent development (Baunoge).
- Impact on residential amenity (overshadowing/loss of privacy).

- Proposal is ambiguous in terms of open space provision. Residents from the proposed development will use the amenity space serving the existing Baunoge estate.
- Proposed development is similar to that previously refused by An Bord Pleanála.
- Traffic safety concerns/no traffic management plan submitted.
- Potential for anti-social behaviour.
- Flood risk.
- NIS is inadequate, other species observed on the site.

4.0 Planning History

Appeal Site

PA Ref. 18/1860 & ABP Ref. 305587-19 – Permission REFUSED for 64 houses.

Reasons for refusal refer to the poor quality of residential design, failure to provide high quality usable open spaces and a layout which does not adequately address the site topography resulting in a visually prominent development, and that the internal road layout would not comply with DMURS, noting the lengthy stretches of straight roads and lack of adequate supervised pedestrian permeability to the existing residential estate.

Under this appeal, the Board issued a Section 137 notice under the Planning and Development Act 2000, as amended, in relation to the design and layout of the proposal. On foot of this notice, the applicant responded and submitted a revised design/layout for the proposal. Specific amendments made included, the reduction in the FFL of a number of houses; the omission of 2 no. houses to allow for the increase in the width of a pedestrian link; provision of a number of dual aspect houses; the inclusion of natural stone as a finish within the scheme, and the provision of a sloped landscape retaining wall and the enhancement of the amenity area to the south of the site. The layout however remained largely the same.

Vicinity of Appeal Site

PA Ref. 21/164 – Permission GRANTED for 7 houses (to south of appeal site). This permission is currently being implemented. Knockanima Stream is located within the

site boundary associated with this permission. (ABP Ref. 312027-21 refers to an invalid appeal in respect of this development).

PA Ref. 07/3551 – Permission GRANTED for a road (to east of site, corresponding with alignment of relief road under Objective TI15a of the Loughrea LAP). This permission was not implemented and has expired.

PA Ref. 03/7295 – Permission GRANTED for 140 houses (development known as ‘Baunoge’ to west and south of the appeal site,).

5.0 Policy Context

5.1. National Policy

5.1.1 National Planning Framework ‘Project Ireland 2040’

The National Planning Framework ‘Project Ireland 2040’ addresses the issue of ‘making stronger urban places’ and sets out a range of objectives to support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

- National Policy Objective 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.1.2 Ministerial Guidelines

5.1.3 Having regard to the nature of the proposed development and to the location of the appeal site, I consider the following Guidelines to be pertinent to the assessment of the proposal.

- Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009).
- Urban Design Manual - A Best Practice Guide (2009).
- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).
- Design Manual for Urban Roads and Streets (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities, (2010).

5.2 Development Plan

5.2.1 The proposed development was considered by the Planning Authority under the Galway County Development Plan 2015-2021 however the Galway County Development Plan 2022-2028 came into effect on the 20th June 2022 and is now the relevant development plan.

5.2.2 The Galway County Development Plan 2022-2028 does not have any land-use zonings in respect of Loughrea. Where settlements have a Local Area Plan (LAP), specific land-use zonings are provided in the applicable LAP.

5.2.3 The appeal site is located within an 'Urban Environs Landscape' (see Map 1) for the purpose of landscape type and is identified as an 'Urban Area' (see Map 6) for the purpose of landscape sensitivity. Urban Areas are described as having a low sensitivity to change.

5.2.4 The provisions of the Galway County Development Plan 2022 - 2028 relevant to this assessment are as follows:

- DM Standard 1: Qualitative Assessment-Design Quality, Guidelines and Statements
- DM Standard 2: Multiple Housing Schemes (Urban Areas)
- DM Standard 22: Walking and Cycling
- DM Standard 33: Traffic Impact Assessment, Traffic & Transport Assessment, Road Safety Audit & Noise Assessment
- DM Standard 67: Sustainable Drainage Systems' (SuDS)
- DM Standard 68: Flooding

5.3 LAP

5.3.1 The relevant LAP is the Loughrea Local Area Plan 2012 (extended until 24th July 2022).

5.3.2 The majority of the appeal site is zoned 'R' (Residential – Phase 1) with a stated objective to,

'Promote the development of appropriate and serviced lands to provide for high quality, well laid out and well landscaped sustainable residential communities with an appropriate mix of housing types and densities together with complementary land uses, such as community facilities, local services and public transport facilities, to serve the residential population of the area. Protect existing residential amenities and facilitate compatible and appropriately designed new

infill development in accordance with the proper planning and sustainable development of the area’.

A phasing scheme will apply to residential uses on Residential (R) zoned lands, as set out under Objective RD1 in Section 3.2.2.

5.3.3 The southern portion of the appeal site is zoned ‘OS’ (Open Space/Recreation and Amenity) with a stated objective to,

‘Promote the development of open spaces and recreational activities in accordance with best practice and on suitable lands with adequate access to the local community and retain existing open space and recreational facilities unless it can be demonstrated to the satisfaction of Galway County Council that these uses are no longer required by the community. Ensure that any flood risk areas within the OS zone are appropriately managed to avoid, reduce and/or mitigate, as appropriate, the risk and potential impact of flooding’.

5.3.4 To the south of the appeal site is an indicative route for the Eastern Relief Road/Street (Objective TI15a refers).

5.3.5 Map 3a indicates an area to the south of the appeal site as being located within Flood Zone A (this is based on a Preliminary Flood Risk Assessment/PFRA)

5.3.6 The provisions of the Loughrea Local Area Plan 2012 relevant to this assessment are as follows:

- DM Guideline LU1 – Development Densities
- DM Guideline LU2 – Land Use Zoning Matrix
- Policy RD1 – Residential Development
- Objective RD2 – Quality Housing Environments
- Objective RD3 – Housing Options
- Objective RD4 – Open Space in Residential Areas
- Objective CF2 – Universal Access
- Objective UI6 – St. Cleran’s River Tributary and Drainage Catchment
- Objective TI15 (a) – Transport Network Improvements
- Objective UD1 – High Quality, Context Sensitive Design

- Objective UD6 – Design Statements

5.4 Natural Heritage Designations

- Lough Rea SAC (Site Code 000304) - located c. 750 metres east of the appeal site.
- Lough Rea SPA (Site Code 004134) – located c. 750 metres east of the appeal site.
- Lough Rea pNHA (Site Code 000304) - located c. 750 metres east of the appeal site.

5.5 EIA Screening

5.5.1 Class 10 (b) Schedule 5 (Part 2) of the Planning and Development Regulations 2001, as amended, provides that mandatory EIA is required for the following classes of development:

- (i) Construction of more than 500 dwelling units.
- (iv) Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area¹ and 20ha 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.)

5.5.2 The current proposal comprises 50 no. dwellings on a site of 2.85 ha. The appeal site is located on zoned lands, within the development boundary of Loughrea, immediately adjacent to existing residential developments. The appeal site could therefore be described as ‘other parts of a built-up area’ rather than a ‘business district’. As such, I am satisfied that the number of proposed units is substantially below the 500 dwelling unit threshold and that the site area is substantially below the 10ha threshold for ‘other parts of a built-up area’. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.

¹ ‘Built-up Area’ means a city or town (where ‘city’ and ‘town’ have the meaning assigned to them by the Local Government Act 2001) or an adjoining developed area (defined in Article 3, Planning and Development Regulations 2001 as amended). An adjoining developed area can be taken to mean contiguous suburbs.

5.5.3 In accordance with section 172(1)(b)(i) of the Planning and Development Act 2000, as amended, EIA is required for developments that are of a class specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001 but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.5.4 Having regard to:

- (a) the nature and scale of the development,
- (b) the location of the site within the development boundaries of Loughrea,
- (c) the location of the development outside of any sensitive site, and,
- (d) given that the development will not result in the production of any significant waste or result in emissions or pollutants,

it is concluded that 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.

I consider that any issues arising from the proximity/connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment).

5.6 Grounds of Appeal

This is a first-party appeal against the decision to refuse permission. The grounds for appeal can be summarised as follows;

- The proposed finished floor levels (FFL) of the houses at the top of the site are substantially lower than those in the adjoining estate. The highest FFL in the adjoining estate is 107.36 metres, whereas the highest FFL in the proposed development is 105.2 metres. The proposed development will therefore not be intrusive in the landscape.

- Pedestrian access is proposed at the top of the development, providing a short-cut through the Baunoge development. A pedestrian path is also provided at the south-west corner of the proposed development. Additionally, footpaths are provided throughout the proposed development, including within the areas of open space.
- All turning bays comply with DMURS. Autotrack details have been submitted.
- A comprehensive landscape scheme has been submitted with the planning application. A substantial amount of open space is provided.
- Sightlines are shown on the layout plans.
- A Road Safety Audit is not required as the relief road terminates at the end of the appeal site, one can be carried out and submitted if deemed necessary by the Board. The applicant disagrees that the proposed development would endanger public safety.
- The issue of the stream to the south of the site was dealt with under a previous planning permission (i.e. PA Ref. 21/164), which forms part of the overall development. These lands are under the applicant's ownership.
- An agreement is in place in relation to Part V and a letter was submitted from the Housing Department with the planning application.

5.7 Planning Authority Response

None received.

5.8 Observations

An observation has been received from Elaine Gough (Secretary of the Residents of Baunoge Estate). The observation generally reiterates the points raised in the third-party submission to the Planning Authority, specifically;

- Proposed development is similar to that previously refused by An Bord Pleanala.
- Visual impact concerns/proposal will visually dominate adjacent development (Baunoge).

- Proposal is ambiguous in terms of open space provision. Part of the open space adjoins the houses and will not be available to the public.
- The proposed layout does not reference the 7 no. houses permitted under PA. Ref. 21/164.
- Traffic safety concerns/no traffic management plan submitted.
- Impact on residential amenity (overshadowing/loss of privacy).
- Concerns regarding anti-social behaviour in the area arising from the proposed development.
- Concerns regarding the straight roads and lack of turning areas.
- Design of the proposed development is different to adjacent development (Baunoge).
- Flood risk.
- NIS is inadequate, other species observed on the site.

6.0 **Assessment**

6.1 Having examined the application details and all other documentation on file, including the appeal, and having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Zoning, Principle of Development, Core Strategy
- Density, Plot Ratio, Site Coverage, Unit Mix
- Flooding
- Refusal Reason 1
- Refusal Reason 2
- Refusal Reason 3
- Refusal Reason 4
- Appropriate Assessment

- Other Issues

6.2 Zoning and Principle of Development, Core Strategy

- 6.2.1 Under the Loughrea Local Area Plan 2012 (extended until 24th July 2022), the majority of the appeal site is zoned 'R' (Residential – Phase 1). The southern portion of the appeal site is zoned 'OS' (Open Space/Recreation and Amenity). I note that the Planning Authority do not refer to the southern part of the site as being zoned 'OS'. Additionally, the Planning Officer's report states that 'the development proposal only provides for residential use on the appropriate zoning', For the most part the proposed houses correspond with the area zoned 'R' however from comparing the Loughrea LAP zoning map and the proposed site layout I note that some of the houses, their front curtilages and the internal road (in the vicinity of House no.'s 1-19) encroach on the 'OS' zoning. Consequently, the proposed development does not accord with the applicable land use zoning for the appeal site as set out in the Loughrea LAP. **This is a new issue** and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.
- 6.2.2 A phasing scheme applies to residential uses on 'R' zoned lands. Given the scale of the proposed development I do not consider that a phasing plan/condition is necessary should a grant of permission be under consideration.
- 6.2.3 Loughrea is designated as a 'Self-Sustaining Town' under the RSES for the Northern and Western Region. Self-Sustaining Towns are described as having '*high levels of population growth and a limited employment base which are reliant on other areas for employment and/or services and which require targeted "catch-up" investment to become more sustaining*'. The proposed development was considered compliant with the Core Strategy in the Planning Authorities assessment however I note that this assessment was made in respect of the previous County Development Plan. The Galway County Development Plan 2022-2028 indicates that Loughrea has a Core Strategy Population Allocation of 1,400, which equates to a Housing Allocation of 806. The Planning Officer's report refers to c. 200 no. residential units having been permitted in the period of the previous County Development Plan, i.e. 2015-2021, where the Core Strategy provided for 351 no. residential units. I have conducted a planning history search using Galway County Council's website and note that there

have been no significant residential developments permitted in the period since the decision/report of the Planning Authority in respect of the current proposal. I therefore consider that the proposed development, comprising 50 no. residential units, complies with the Core Strategy of the recently adopted Galway County Development Plan 2022-2028.

6.3 Density, Plot Ratio, Site Coverage, Unit Mix

6.3.1 In relation to density, the overall proposal will entail 50 no. units on a site of 2.85 ha, equating to a density of c. 17.5 dpha. The report of the Planning Officer notes that the density of the proposed development would be slightly higher than that provided for under DM Guideline LU1 of the Loughrea LAP, which provides a density range of 5-15 dpha for urban periphery, outlying lands and lands with capacity/environmental constraints. Separately, I note Section 5.8 of the *Sustainable Residential Development in Urban Areas 2009*, which recommends minimum net densities of 50 dwellings per hectare on sites within 500 metres walking distance of a bus stop and within one kilometre of a rail station. However, noting the constraints of the site, in particular the topography of the site, and the pattern of development and prevailing density on the adjoining lands (i.e. c. 23 dpha within Baunoge), I consider that the density proposed is appropriate in this context.

6.3.2 Regarding plot ratio, the Loughrea LAP provides a plot ratio of 0.10 – 0.50 for lands zoned 'R'. The proposed development, comprising a building area of 6,413 sqm on a site of 28,500 sqm results in a plot ratio of 0.23. Accordingly, I consider the proposal acceptable in terms of plot ratio.

6.3.3 The Loughrea LAP provides a maximum site coverage of 50% for lands zoned 'R'. Details have not been provided with the planning application to allow for a calculation of site coverage to be undertaken, however based on the site plan it would appear that site coverage is significantly below 50%.

6.3.4 The proposed development is comprised entirely of 4 bedroom houses and in my opinion lacks an appropriate mix in unit typology. I consider that the proposal should provide for a broader mix of unit type to facilitate for example single people or the

elderly. The provision of one and two bedroom houses would address this. Should the Board be minded to grant permission for the proposed development this issue would be required to be addressed.

6.4 Flooding

6.4.1 A Site Specific Flood Risk Assessment (SSFRA) has been submitted in respect of the proposed development. Based on the OPW Preliminary Flood Risk Assessment (PFRA), the south of the appeal site is affected by fluvial flooding from Knockanima Stream, which is located to the south of/outside the appeal site. I note that PFRA maps are 'predictive' flood maps, showing areas predicted to be inundated during a theoretical or 'design' flood event, with an estimated probability of occurrence. The maps associated with the Loughrea LAP 2012 – 2018, which are based on the PFRA maps, also indicate fluvial flooding within/and to the south of the site. There are no records of historic flooding within or in the vicinity of the site according to the OPW website.

6.4.2 The SSFRA states that the primary flood mechanism for the site is fluvial flooding, from Knockanima Stream. Other forms of flooding have been discounted on the basis of topography, distance from the coast and the absence of ground water flooding/karsk features on the site.

6.4.3 Based on CFRAMs mapping, the highest level of the flood plain in the vicinity of the appeal site is taken to be 94 metres (OD Malin). This figure takes account of climate change (i.e. 20%). The lowest finished floor level (FFL) of any house within the proposed development is 95.5 metres (OD Malin), therefore the minimum freeboard against the 0.1% chance of flooding is 1.5 metres, this includes a 20% allowance from climate change. As the FFL's of the proposed houses are above the 0.1% flood level all proposed houses are considered to be located within Flood Zone C.

6.4.4 Regarding Knockanima Stream to the south of the site, the SSFRA states that it is proposed to have a section culverted with a metal grid roof covering the culverted section, allowing for open channel flow. The SSFRA also contains proposed surface water management measures. Specifically, the part of the embankment that is lower

than 94 metre (OD Malin) and sloping towards the stream should be comprised of dry stone, gabions or a wall with weep holes. Additionally, a 10 metre stretch along the stream is proposed to have gabion walls and a French drain is proposed to the north of the culverted stream. I note that the stream is not located within the red line boundary of the appeal site (this issue is addressed at paragraph 6.8.4, below).

6.4.5 The SSFRA states that the proposed development is not obstructing natural flow paths and estimated floods in the stream are not backing-up on to adjacent properties. Hence, there will be no negative effects on the subject site or other property.

6.4.6 The SSFRA concludes that the proposed development is suitable with regard to the Planning System and Flood Risk Management Guidelines 2009 and such development will have no adverse effects on flood risks to adjacent properties. Having reviewed the SSFRA, I consider that the proposed development, comprising houses within Flood Zone C is acceptable.

6.5 Reason 1

6.5.1 The first reason for refusal refers to the substandard nature of the proposed development, specifically its design and layout, failure to provide high quality usable open spaces and road layout which is considered contrary to DMURS. The Planning Authority considered that the proposal fails to adequately address the site's topography, resulting in a visually prominent development which would seriously injure the visual amenities of the area.

6.5.2 Section 6.8 of the Sustainable Residential Development in Urban Areas Guidelines, 2009 sets out design principles to be considered in the layout and design of residential schemes, including making a positive contribution to its surroundings, and taking the best advantage of its location through the use of site topography, levels, views, context, landscape, design orientation to optimise sustainability. The accompanying document, "Urban Design Manual – a Best Practice Guide" issued by the Department of the Environment, Heritage and Local Government (2009) also includes key criteria such as context, connections, inclusivity, variety and distinctiveness which are pertinent to residential development. Similarly, Section 4.2 Design Approach of the

Quality Housing for Sustainable Communities, Best Practice Guidelines (2007) sets out the main considerations underpinning the overall design of a housing scheme, which includes the elimination of barriers to accessibility for all users, particularly older people and those with mobility impairment, ensuring that the scheme can be constructed, managed and maintained at reasonable cost and in a way that is economically, socially and environmentally sustainable, and promoting permeability as a means to achieve a high quality living environment. These Guidelines provide a framework within which to assess the layout and quality of residential development.

6.5.3 I have a number of concerns in relation to the layout and design of the proposed development. The context of the site is established with reference to its location, adjoining an existing development, Baunoge, and its topographical attributes, with an associated level of visual prominence. The appeal site is steeply sloping and is visually prominent in the immediate landscape. The proposed development is dominated by linear elements and uniformity, resulting in a prominent built form which would be incongruous in this transitional location, particularly against a backdrop of agricultural land. The applicant contends in the appeal submission that the highest FFL in the adjoining estate is 107.36 metres, whereas the highest FFL in the proposed development is 105.2 metres, and therefore the proposed development will not be intrusive in the landscape. In contrast to the proposed development, I note that the existing development to the west, Baunoge, is comprised of shorter terraces, curved block forms, shorter internal access roads and an internal road network which responds to the topography of the area by using shorter and curved roads. I also note that the houses within the proposed development are of uniform height throughout, including the houses on the higher part of the site and no efforts have been made to provide for a lower impact house type on the upper part of the site. Additionally, the design of the proposed houses are generally homogenous, with minimal differentiation between house types. As such, I consider that the design of the proposed development fails to respond appropriately to the context of the site, in particular the site's topography and that the proposed development would result in significant negative impacts on the receiving landscape and on the visual amenities of the area.

6.5.4 The proposal entails extensive manipulation of the landscape, including cutting, in order to facilitate the proposed development. The majority of rear gardens within the

scheme have an area which accessible by steps, noting the significant slope within the rear gardens. I consider that this would represent a disamenity to the occupants of these houses, and would render these areas inaccessible to some residents, potentially posing issues in terms of maintenance. Additionally, the area along the north of the site comprises a steep slope to the side/rear of House no's. 34, 35 and 50. This steeply sloped bank is indicated as an area with a 'reduced mowing regime' on the Ecological Mitigation/Biodiversity Map and will be up to c. 4 metres higher when compared to local ground levels at these houses. These elevated areas are indicated as being within the ownership of House no. 34, 35 and 50, potentially creating access and maintenance issues for these particular residents.

6.5.5 Whilst the quantum of public open space provided within the proposed development (i.e. 9,165 sqm/32% of the site) accords with the Loughrea LAP (DM Guideline LU1) in terms of the quantitative provision of open space, I have a number of concerns regarding the quality and composition of public open space within the scheme. I have a particular concern in relation to the accessibility of the area of open space located south of the relief road, in particular from the perspective of child safety, given its distance from houses and the impeded visibility which would arise due to landscaping. This area of open space has topographical levels between 93 metres and 94.5 metres (OD Malin). Based on CFRAM's mapping, the highest level of the flood plain at this location is 94 metres (OD Malin) and therefore during flood events it is likely that this area would be unusable. Elsewhere on the site, the area of open space along the western boundary of the site is steeply sloped, with a level differential of c. 5 metres between the northern and southern part, presenting challenges for young children and for the playing of ball games. Additionally, I note that there is a level differential of c. 5 metres between this area of open space, specifically to the rear of House no. 10 and 11 and these units. This would result in amenity impacts on these houses as the users of the open space at this location would have views into the bedrooms of the units which face this area, and possibly views of the private amenity space serving these units. I also note the that south-western corner of this area would have a

propensity for anti-social behaviour given its distance from houses and its largely unsurveilled nature.

6.5.6 Section 3.14 of the Sustainable Residential Development in Urban Areas Guidelines, 2009 sets out design principles to be considered in the layout and design of streets in residential area, including connectivity, permeability and sense of place. The layout of the proposed development is dominated by long stretched of straight road, most notably along the front/south of the site where there is a c. 200 metre stretch of straight road, cul-de-sacs and turning heads within areas of open space. No provision for vehicular connectivity from Baunoge has been made, with motorists required to take a circuitous route from Baunoge. Regarding pedestrian and cycle connectivity and permeability, I agree with the Planning Authority that the proposed development is insular and there is minimal connectivity to the adjoining area. With the exception of one linkage to the north-west of the site (which I note is indicated on the Site Layout Plan but is not depicted on the Landscape Plan) there is no direct connectivity into the adjoining development to the west. This connection is also stepped and would present challenges for people using buggies and people using wheelchairs etc. The proposed scheme fails to adequately consider pedestrians, with pedestrians seeking to access the upper part of the development having to use a circuitous route, due the lack of permeability within the scheme.

6.5.7 I note the history on the appeal site, and specifically the layout of the development which was refused by the Board under ABP Ref. 305587-19. Having regard to the forgoing, I do not consider that the current proposal is significantly different to this development, in terms of how it responds to the context of the site or how permeability has been addressed. The proposed development fails to meet many of the standards applicable to a modern-day development as reflected within guidance, most notably the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, and the Design Manual for Urban Roads and Streets. I do not consider it appropriate to recommend a grant of permission for the proposed development.

6.6 Reason 2

6.6.1 The second refusal reason states that in the absence of a road safety audit, in conjunction with a number of concerns identified in respect of sightlines, street design and turning facilities, it is considered that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users.

6.6.2 An indicative route for the Eastern Relief Road/Street (Objective TI15a of the Loughrea LAP refers) traverses the southern part of the appeal site. Objective TI15a provides,

‘support the improvement of the road and street network in and around the plan area’....including ‘a new relief road/street connecting the north-eastern approach road (R446) to the south-eastern approach road (L4213) in the eastern portion of the Plan Area. This new route should be designed to provide adequate access points to adjacent lands with adjacent street-oriented development and will provide opportunities for smarter travel improvements within the town.

Prohibit development on lands that are reserved for proposed road/street corridors and associated buffers and where development would affect a route, line, level or layout of any proposed new roadway or any junction required between a proposed and existing road’.

The Loughrea LAP (see page 29) envisages this road as *‘helping to improve access, remove through traffic from the town centre and main streets and service new development areas to the east of the town’*. As part of this road traverses the appeal site I consider that the manner in which it is incorporated into the proposed development to be a relevant and significant consideration in the assessment of the proposal. Objective TI15a refers to this road/street as providing access to ‘street-oriented development’. I note that DMURS provides that relief roads should *‘be integrated within the urban fabric so that a sense of place is maintained and to prevent severance between adjoining areas’*. In this regard, I consider that the proposed development should provide a more active/engaging frontage to this road/street. As proposed this road/street would be separated from the proposed development by an area of open space and the internal access road, with the proposed houses located some distance from the road/street. The implications of this layout would be a road/street which is divorced from the development which it is intended to provide

access to. The lack of any sense of enclosure along this road/street would also encourage increased traffic speeds, with a tendency for road users to travel at higher speeds on roads with an open character and forward visibility.

6.6.3 The Planning Authority consider that a Road Safety Audit is required for the proposed development. The parameters of this Road Safety Audit appear to relate primarily to issues within the site, swept path analysis, parking, pedestrian facilities, lighting etc. In the appeal submission, the applicant contends that as the relief road/street 'terminates' at the end of their site there is no such requirement for a Road Safety Audit. I note that access to the proposed development is achieved by connecting with the existing road to the west, which serves Baunoge. The alignment of this road is indicated in the Loughrea LAP as continuing east, forming the relief road/street depicted under Objective TI15a. The proposed development entails the partial provision of a new road (i.e. the part of the relief road/street along the south of the appeal site). In accordance with TII Publication TII GE-STY-01024, road safety audits are mandatory for national roads and development affecting same. Road safety audits are however discretionary for local roads, and often requested by Planning Authorities for developments where it is considered that particular traffic/transport issues arise. Whilst the parameters of the Road Safety Audit required by the Planning Authority would appear to relate to issues within the site, given the significance of the proposal with regard to road infrastructure in the wider area, and in particular to the status of the relief road/street, as required under Objective TI15a, I consider that the preparation of a Road Safety Audit would be prudent in this instance. I note that the Loughrea LAP does not set out any design parameters for the relief road/street required under Objective TI15a, for example the LAP does not specify carriage widths, cycle/pedestrian infrastructure provision etc. In light of this a Road Safety Audit would in my opinion be particularly useful in ensuring that at a minimum, safety standards are incorporated into the design of this part of the relief road/street and the junction between the proposed development and this relief road/street. Should the Board be minded to grant permission for the proposed development I recommend that a Road

Safety Audit (Stage 1 and 2) is carried out and submitted prior to any grant of permission.

6.6.4 The Planning Authority have expressed concerns in relation to sightlines, street design and turning facilities. I note that sightlines of 70 metres (in both directions) are indicated on the proposed Site Layout Plan for the junction onto the relief road/street. Assuming a design speed of 50 kmph given the location of the relief road/street within an urban area, the sightlines indicated would accord with DMURS. Sightlines are not indicated for other junctions within the proposed development. Regarding swept path analysis, with the exception of one part of the site (i.e. between House no. 19 and 20) details have been provided which demonstrate bin lorry manoeuvres. I consider the absence of sightline information for junctions within the proposal to be a deficiency and as such it has not been demonstrated that the internal road network can operate safely.

6.6.5 Regarding road geometry within the scheme, I note that the scheme is dominated by stretches of straight road and cul-de-sacs. Raised tables with speed ramps appear to be proposed to slow vehicles on approach to junctions. DMURS sets out principles, approaches and standards necessary to achieve best practice in urban roads and street design and apply to the design of all urban roads and streets (that is streets and roads with a speed limit of 60 km/h or less). The Guidelines provides that cul-de-sacs should not dominate residential layouts as they negate permeability. DMURS also notes that straight roads encourage speed and vehicular dominance and layouts should be cognisant of this. I do not consider that the proposal would comply with the guidelines set out in DMURS in this regard. Additionally, the location of areas of public open space within the scheme alongside stretches of straight road, which would facilitate vehicles travelling at higher speeds, would result in traffic safety issues, in particular for children.

6.6.6 In summation, having regard to the information submitted, the absence of a Road Safety Audit, sightline information, the design of the proposed development, specifically its layout relative to the relief road/street required under Objective RI15a of the Loughrea LAP, the design of the internal road network which is dominated by long straight stretches and cul-de-sacs, the proposal would not accord with the

principles of DMURS, and would potentially result in pedestrian/vehicular conflicts, such that the submission of a Road Safety Audit is considered appropriate.

6.7 Refusal Reason 3

6.7.1 The third refusal reason relates to surface water, specifically that the surface water proposals are not satisfactory, that the water management measures identified in the SSFRA have not been adequately considered in the NIS and, that these measures can be carried out, as they relate to lands outside the control of the applicant and as such the proposed development would be contrary to Objectives FL1, WW7, DS6 of the Galway County Development Plan 2015-2021.

6.7.2 Regarding the adequacy of the information submitted in relation to surface water for the proposed development, I note that the report of the Roads and Transport Department notes inconsistencies relating to the hydraulic design of the proposed surface water drainage system; the requirement for nature based SuDS measures; and the requirement for technical information including design assumptions, catchment drawings, sewer design calculations, analysis to demonstrate that the system can cater for extreme flood event and details of infiltration tests. Having reviewed the information submitted with the planning application I consider that this information is absent and as such the proposal is deficient. The applicant has not adequately demonstrated how surface water drainage within the proposed development is to be managed. Furthermore, I consider that in the absence adequate proposals and information concerning surface water drainage, the conclusions of the SSFRA could be impacted, noting that it is based on an assumption that surface water run-off from the site will be captured, conveyed and attenuated adequately.

6.7.3 I concur with the Planning Authority in relation to the absence of reference in the NIS to the surface water management measures referred to in the SSFRA. I consider this to be a deficiency in the NIS and this is further addressed in Paragraph 6.10.30 (below).

6.7.4 The SSFRA proposes surface water management measures at Knockanima Stream, given that this part of the site is at a lower level than the maximum predicted flood

level. These measures relate to improvements in the conveyance of water within the stream. Knockanima Stream is located outside the red line boundary for the current planning application and as such cannot be considered as part of the proposed development. That being said, Knockanima Stream is located within the red line boundary of the development permitted under PA Ref. 21/164 and I note that the current applicant (Jardonelle Ltd) was also the applicant in relation to this application. The development permitted under PA Ref. 21/164 is currently being implemented, and as part of this development the same surface water management measures were permitted, and conditioned (see Condition no. 2 of PA. Ref. 21/164). Notwithstanding the location of Knockanima Stream outside the red line boundary for the current planning application, given that these works are/will be implemented, benefiting both developments, I do not consider this issue to warrant a refusal of permission.

6.8 Refusal Reason 4

6.8.1 The fourth reason for refusal concerns the discharge of the applicant's obligations under Section 96 of the Planning and Development Act 2000, as amended. The Planning Authority are not satisfied that adequate proposals have been submitted in this regard. The applicant states in the appeal submission that an agreement is in place in relation to the compliance with Part V and a letter was submitted from the Housing Department with the planning application. From inspecting the scanned documents on the Planning Authorities website I note that this letter is on file (see correspondence Ref. HS-663). In the event of a grant of permission, a planning condition providing for the developer to comply with the provisions of Section 97 of Part V of the Planning and Development Act 2000 as amended would be attached addressing the applicant's obligations under Section 96 of the Planning and Development Act 2000, as amended.

6.9 Appropriate Assessment

6.9.1 Stage 1 Screening

6.9.2 Compliance. The requirements of Article 6(3) of the Habitats Directive 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.

6.9.3 Background. The applicant submitted an Appropriate Assessment Screening report, prepared by Planning Consultancy Services, for the proposed development. The applicant's Stage 1 Appropriate Assessment Screening report concluded that '*indirect impacts on Lough Rea SAC/SPA are predicted in the absence of mitigation*'. The applicant's Stage 1 Appropriate Assessment 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. A Construction and Demolition Waste Management Plan prepared by Cyril J Kelly and Associates has also been submitted. Having reviewed the documents, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

6.9.4 Likely Significant Effects. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated as SACs and SPAs to assess whether it may give rise to significant effects on any European Site.

6.9.5 The Proposed Development. The development is described on page 5 of the Stage 1 Appropriate Assessment Screening report. It comprises;

- The construction of 50 no. houses.
- Associated site works and connection to existing services.
- Public open space.
- Landscaping.
- An internal road network.
- The construction phase for the proposed development is expected to be 6 - 12 months.
- The surface water strategy for the proposed development is described as follows;

Surface water from hardstanding and roofs will flow by gravity into a soakaway located under the area of open space in the centre of the site. Remaining surface water run-off will flow by gravity to 2 no. underground concrete attenuation tanks, located under the area of open space between the internal access road and the relief road. The water from the tanks will flow via a Class 1 petrol interceptor and hydro brake control valve before entering the public storm water network.

6.9.6 Potential Effects of the Proposed Development. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of the implications for likely significant effects on European Sites:

- The uncontrolled release of pollutants and sedimentation to ground or surface water (e.g. run-off, silt, fuel, oils, wastewater effluent) at construction and operational phases of the proposed development.
- Should birds species connected with Lough Rea SPA use the site for resting, foraging, breeding etc. then the proposed development would have the potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).

6.9.7 Submissions and Observations. An observation has been received from Elaine Gough (as Secretary of the Residents of Baunouge Estate). Regarding the NIS, the submission notes that species other than that identified in the NIS are present on the site. I note that the information contained in the submission does not appear to be based on any scientific survey and in this regard is not verified.

6.9.8 European Sites and Connectivity. The appeal site is located c. 750 metres from Lough Rea SPA and Lough Rea SAC. A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1 overleaf. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail. I am satisfied that other European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site or given the absence of any direct hydrological or other pathway to the appeal site.

Table 7.1 - Summary Table of European Sites within a possible zone of influence of the proposed development.

European 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 Rea SPA (004134)	<ul style="list-style-type: none"> Shoveler (<i>Anas clypeata</i>) [A056] Coot (<i>Fulica atra</i>) [A125] Wetland and Waterbirds [A999] 	c. 750 metres	In-direct hydrological connection via Knockanima Stream to south of appeal site	Y
Lough Rea SAC (000304)	<ul style="list-style-type: none"> Hard oligo-mesotrophic waters with benthic vegetation of <i>Chara</i> spp. [3140] 	c. 750 metres	In-direct hydrological connection via Knockanima Stream to south of appeal site	Y
Slieve Aughty Mountains SPA (004168)	<ul style="list-style-type: none"> Hen Harrier (<i>Circus cyaneus</i>) [A082] Merlin (<i>Falco columbarius</i>) [A098] 	c. 4 km	No direct/indirect connectivity	N (due to separation distance and lack of connectivity)
Sonnagh Bog SAC (001913)	<ul style="list-style-type: none"> Blanket bogs (* if active bog) [7130] 	c. 9 km	No direct/indirect connectivity	N (due to separation distance and lack of connectivity)
Peterswell Turlough SAC (000318)	<ul style="list-style-type: none"> Turloughs [3180] Rivers with muddy banks with <i>Chenopodium rubri</i> p.p. and <i>Bidenton</i> p.p. vegetation [3270] 	c. 13 km	No direct/indirect connectivity	N (due to separation distance and lack of connectivity)
Rahasane Turlough SAC (000322)	<ul style="list-style-type: none"> Turloughs [3180] 	c. 13 km	Indirectly connected. There is an in-direct hydrological connection between the appeal site and Lough Rea SAC/SPA via Knockanima Stream, located to south of appeal site. St. Claren River is	N (due to separation distance and lack of connectivity)

			<p>located to the north-east corner of Lough Rea some 750 m west of the appeal site. St. Claren River flows to the Craughwell River, which in turn discharges to the Dunkellin River, which in turn feeds Rahasane Turlogh.</p> <p>Any suspended solids/hydrocarbons from the site will dissipate within Lake, noting its size (364 sq ha). Any runoff from the site which enters St. Claren River will have to flow c. 16 km before entering Rahasane Turlogh.</p> <p>Wastewater from site is treated in Loughrea WWTP, therefore effects can be screened out.</p>	
Rahasane Turlogh SPA (004089)	<ul style="list-style-type: none"> • Whooper Swan (<i>Cygnus cygnus</i>) [A038] • Wigeon (<i>Anas penelope</i>) [A050] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Black-tailed Godwit (<i>Limosa limosa</i>) [A156] • Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395] • Wetland and Waterbirds [A999] 	12 km	<p>Indirectly connected.</p> <p>There is an in-direct hydrological connection between the appeal site and Lough Rea SAC/SPA via Knockanima Stream, located to south of appeal site. St. Claren River is located to the north-east corner of Lough Rea some 750 m west of the appeal site. St. Claren River flows to the Craughwell River, which in turn</p>	N (due to separation distance and lack of connectivity)

			<p>discharges to the Dunkellin River, which in turn feeds Rahasane Turlogh.</p> <p>Any suspended solids/hydrocarbons from the site will dissipate within Lake, noting its size (364 sq ha). Any runoff from the site which enters St. Claren River will have to flow c. 16 km before entering Rahasane Turlogh.</p> <p>Wastewater from site is treated in Loughrea WWTP, therefore effects can be screened out.</p>	
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6.9.9 Following an examination of sites within the zone of influence, and upon an examination of the connectivity between the appeal site and these sites (see Table 7.1 above), Lough Rea SAC and Lough Rea SPA have been ‘screened in’ as the appeal site is hydrologically connected to Lough Rea SAC and Lough Rea SPA via Knockanima Stream, to south of appeal site. From reviewing Catchments.ie, I note that Knockanima Stream discharges to St. Claren River, at a location c. 50 metres north-east of Lough Rea. All other Natura 2000 sites surrounding the proposed development have been screened out due to a lack of connectivity. The Appropriate Assessment Screening undertaken by the applicant did not acknowledge the indirect connectivity which exists between the appeal site and Rahasane Turlough SAC/SPA however this has been addressed in Table 7.1 above.

6.9.10 Conservation Objectives of European Sites ‘Screened-In’. There is no Conservation Management Plan for Lough Rea SPA. The Conservation Objective(s) for Lough Rea SPA is;

‘to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA’ and ‘to maintain or restore

the favourable conservation condition of the wetland habitat at Lough Rea SPA as a resource for the regularly-occurring migratory waterbirds that utilise it'.

A Conservation Management Plan for Lough Rea SAC has been prepared.

The Conservation Objective for Lough Rea SAC is;

'to maintain the favourable conservation condition of Hard oligo-mesotrophic waters with benthic vegetation of Chara spp.'

6.9.11 Identification of Likely Effects. In light of the above Conservation Objectives the main elements of the proposal which may give rise to impacts on the European sites listed above are as follows:

Construction Phase Impacts on Lough Rea SAC - During the construction phase there is potential for surface water runoff from site works to temporarily discharge via groundwater and surface water to Knockanima Stream, which discharges to St. Claren River, at a location c. 50 metres north-east of Lough Rea. Given the nature and scale of the proposed construction works and the proximity of the site to Knockanima Stream which flows in proximity Lough Rea SAC there is the potential for the water quality pertinent to this European Site to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons. Lough Rea SAC is particularly sensitive to eutrophication. Eutrophication of Lough Rea could occur if nutrient enriched run-off containing phosphorus and nitrogen entered to lake. Common sources of such contaminants include fertilizer and sewerage. Foul effluent is addressed below under operational phase impacts.

Construction Phase Impacts on Lough Rea SPA - Wetland habitat has the potential to be impacted from potentially polluted surface water during the construction phase of the proposed development. Species of bird that may graze on aquatic plants and algae could also be impacted from potentially polluted surface water during the construction phase of the proposed development. Given nature and scale of the proposed construction works and the proximity of the site to Knockanima Stream which discharges to St. Claren River, at a location c. 50 metres north-east of Lough Rea, there is the potential the water quality pertinent to this European Site to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons. The two species of birds which

are Qualifying Interests of Lough Rea SPA (i.e. Shoveler and Coot) are not habitually found outside waterbodies and would not use sites such as the appeal site for resting, foraging, breeding etc. and as such the proposed development would not have the potential to result in habitat fragmentation or disturbance to bird species associated with Lough Rea SPA.

Operational Phase Impacts on Lough Rea SAC - During the operational phase of the proposed development foul sewer from the proposed development will be treated in Loughrea Waste Water Treatment Plant. The most recent Annual Environmental Report for Loughrea Waste Water Treatment Plant was published by Irish Water in 2020. Loughrea Waste Water Treatment Plant 2020 has a Plant Capacity PE of 9500. I note that no capacity issues were raised in the planning application. In 2020 the Loughrea WWTP was non-compliant with the Emission Limit Values (ELVs) set in the Plant's Wastewater Discharge Licence. The ambient monitoring results did not meet the required Oxygenation and Nutrient Conditions set out in the Surface Water Regulations 2009 and a deterioration in water quality has been identified, however it is not known if this was caused by the WWTP. Importantly however, based on the annual report I note that the discharge from the wastewater treatment plant did not have an observable negative impact on the Water Framework Directive status of Lough Rea.

Operational Phase Impacts on Lough Rea SPA - Wetland habitat within Lough Rea SPA could be impacted from potentially polluted surface water during the operational phase of the proposed development. Species of bird that may graze on aquatic plants and algae could also be impacted from potentially polluted surface water during the operational phase of the proposed development.

In-combination Impacts. Permission was granted under PA. Ref. 21/164 for 7 no. houses to the immediate south of the site. This application was accompanied by an NIS and contained mitigation measures. These mitigation measures include protection measures for the watercourse on the site, measures for refuelling, the storage of material on the site etc. As significant effects from the development permitted under PA. Ref. 21/164 are unlikely on Lough Rea SAC/SPA subject to the implementation of these mitigation measures, in combination effects with the development proposed under the current planning application are also unlikely.

A summary of the outcomes of the screening process is provided in the screening matrix Table 7.2 overleaf.

Table 7.2 - Summary Screening Matrix				
European Site	Distance to proposed development/ Source, pathway receptor	Possible effect alone	In combination effects	Screening conclusions:
Lough Rea SAC (000304)	Lough Rea SAC is located c. 750 metres west.	<p>During the construction and operational phase there is potential for surface water runoff from site works to temporarily discharge to Knockanima Stream, which discharges to St. Claren River, at a location c. 50 metres north-east of Lough Rea.</p> <p>The proposal discharges to the public foul sewer network and will be treated in Loughrea WWTP.</p>	No effect	Screened in for AA
Lough Rea SPA (004134)	Lough Rea SPA is located c. 750 metres west.	<p>During the construction and operational phase there is potential for surface water runoff from site works to temporarily discharge to Knockanima Stream, which discharges to St. Claren River, at a location c. 50 metres north-east of Lough Rea.</p> <p>The proposal discharges to the public foul sewer network and</p>	No effect	Screened in for AA

		will be treated in Loughrea WWTP.		
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6.9.12 Mitigation Measures. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

6.9.13 Screening Determination. 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 **could have a significant effect** on Lough Rea SAC/European Site No. 000304 and Lough Rea SPA/European Site No. 004134, in view of the site's Conservation Objectives, and Appropriate Assessment is therefore required.

6.9.14 **Stage 2 – Appropriate Assessment**

6.9.15 Article 6(3). The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 as amended are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for appropriate assessment.
- The Natura Impact Statement and associated documents.
- Appropriate assessment of implications of the proposed development on the integrity each European site.

6.9.16 Compliance with Article 6(3) of the EU Habitats Directive. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied

that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

6.9.17 Screening The Need for Appropriate Assessment. Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in-combination with other plans or projects will have a significant effect on the following European sites:

- Lough Rea SPA (Site Code: 004134).
- Lough Rea SAC (Site Code: 000304).

The possibility of significant effects on other European sites has been excluded on the basis of objective information. The following European sites have been screened out for the need for appropriate assessment.

- Slieve Aughty Mountains SPA (004168).
- Sonnagh Bog SAC (001913).
- Peterswell Turlough SAC (000318).
- Rahasane Turlough SAC (000322).
- Rahasane Turlough SPA (004089).

Measures intended to reduce or avoid significant effects have not been considered in the screening process.

6.9.18 The Natura Impact Statement. The application includes a NIS (dated October 2021), prepared by Planning Consultancy Services which examines and assess potential adverse effects of the proposed development on Lough Rea SAC and Lough Rea SPA.

6.9.19 Regarding the habitat, the NIS notes that the dominant habitat on the site is improved grassland. To the west of the site is a stand of beech trees. The boundaries of the site are comprised of scrub. All habitats have been classified in accordance with Fossit. There is an area of spoil and bare ground to the south of the site. Robin, Magpies,

Hooded Crow and Ravens are stated as being observed on the site. The NIS states that the ecological survey was undertaken outside the optimal time to undertake a habitat and flora survey, however the NIS states that this is not seen as a constraint as all habitats within and adjacent to the subject site were readily identifiable during the site visits. The two species of birds which are Qualifying Interests of Lough Rea SPA (i.e. Shoveler and Coot) are not habitually found outside waterbodies and as such would not find the appeal site to be suitable for resting, foraging etc. As such the undertaking of the ecological survey outside the optimal time to undertake such surveys is considered acceptable and would not have implications for the accuracy of information contained in the NIS. The NIS states that no species, or signs of their presence, considered as Qualifying Interests in the Lough Rea SAC/SPA conservation objectives, or Annex II species were recorded on the site. The NIS refers to the site visit/ecological survey/site walkover as having been undertaken on the 26th September, and elsewhere the 29th September and also the 1st October 2021.

6.9.20 Regarding soils, geology and hydrology, groundwater vulnerability throughout the site is stated as being 'Extreme'. Flood risk on the site is not addressed in the NIS.

6.9.21 The main potential impacts from the proposed development on Lough Rea SAC/SPA, are identified as the discharge of silt-laden and contaminated surface water run-off entering the Knockanima Stream during the construction phase of the proposal. The Appropriate Assessment Screening stated that no identifiable hydrological connection exists during the operational phase of the proposed development and that the proposal will connect to the public sewer. In this regard, the NIS focus on potential construction related impacts only.

6.9.22 Section 3.3. of the NIS sets out mitigation measures which will be adhered to. Measures proposed include;

Site Set Up:

- A solid fence will be erected around the site perimeter. All works will be located within the confines of the 'wall' (sic).

- A silt trap will be erected around the southern and eastern boundaries of the site to prevent surface water run-off entering the Knockanima Stream and flowing to Lough Rea SAC/SPA.

Earthworks:

- Excavations, soil depositing or soil stripping shall not take place immediately following periods of prolonged or heavy rainfall.
- All stockpiles of sand, gravels, and soils should be stored on level terrain and shall be covered during heavy rainfall.
- If gravel or hard standing materials are brought onto the site, ensure that the source is free from invasive species.

Air Quality Dust and Emissions:

- Dust and malodour will be kept to a minimum.
- The site will be dampened to minimise wind blown dust during dry weather.
- Dust suppression equipment must be used when point source emissions are likely.
- No burning of material on site will be allowed.
- Care will be taken to ensure that the deposition of debris on local roads is minimised.

Refueling, Fuel and Hazardous Materials Storage:

- All machinery maintenance and re-fueling shall be carried out off-site.
- Spill kits must be used.
- All petroleum products to be bunded during the construction stage.

Environmental Approvals and Licenses:

- Appropriate permits will be retained for the completion of demolition/waste disposal.

Groundwater Contamination:

- Direct discharges of pollutants into groundwater will be prohibited.
- Drip trays must be utilised for all machinery on site and monitoring undertaken to ensure that there is no risk of overflow and that they are adequately sized.

Drainage and Water Quality:

- All works shall be planned and executed in accordance with Environmental Protection Agency Guidelines.
- Wash water from on-site mixers or lorries shall be disposed of off-site.
- The contractor should ensure that operations do not give rise to the discharge of large quantities of dirty wastewater into the watercourses. Measures must be in place to ensure that silt will not be allowed to enter the water system.
- To prevent run off from stripped ground, banks are to be placed on the downstream side of stockpiles.
- Water from excavations shall be pumped to land and allowed to settle, or passed through silt traps, before returning into the watercourse.
- Good site management will ensure that surface water and groundwater will be protected from accidental contamination.
- Washing out of concrete trucks should not be permitted within the site and should be conducted in hard standing areas.
- Works with concrete shall be done during dry conditions for a period sufficient to cure the concrete (at least 48 hours).
- Concrete pours shall occur in contained areas.
- Portable toilets and sanitary facilities will be provided for site use.
- Plant will be refueled away from watercourses.
- All site operatives will have immediate access to spill kits when machinery is being used.
- A silt trap is to be placed around the southern boundary of the site to prevent surface water runoff.

Mitigation measures not referred to in the NIS but included in the Construction and Waste Management Plan include;

- The discharge of stormwater and sediment laden water from drains and footpaths to gullies and filtration through Class 1 separators before being discharged into a soakaway and an attenuation tank designed to SuDS specifications.

The applicant's NIS concludes that *'with the implementation of best practice measure and mitigation measures, it is not expected that the proposed development will give rise to any direct, indirect or secondary impacts on Lough Rea SAC or Lough Rea SPA. No surface water runoff is predicted to enter the adjacent stream leading to the Natura 2000 sites when mitigation measures and best practice is implemented. No*

significant ecological or environmental impacts are predicted from the proposed development.

6.9.23 Having reviewed the documents, submissions and consultations, I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of the following European sites alone, or in combination with other plans and projects:

- Lough Rea SPA (Site Code: 004134).
- Lough Rea SAC (Site Code: 000304).

The applicant's NIS was prepared in line with current best practice guidance and provides an assessment of the potential impacts on Lough Rea SAC/SPA.

6.9.24 Appropriate Assessment of implications of the proposed development. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

6.9.25 The following sites are subject to Appropriate Assessment:

- Lough Rea SPA (Site Code: 004134).
- Lough Rea SAC (Site Code: 000304).

A description of the sites and their Conservation and Qualifying Interests/Special Conservation Interests are set out in Table 7.1 of this report. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website (www.npws.ie). The main threats to Lough Rea SAC/SPA are from nutrient enrichment, agricultural run-off and boating activities (www.npws.ie).

6.9.26 The main aspects of the proposed development that could adversely affect the conservation objectives of European sites include;

- The uncontrolled release of pollutants and sedimentation to ground or surface water (e.g. run-off, silt, fuel, oils, wastewater effluent) at construction and operational phases of the proposed development.

6.9.27 Given the connectivity between the appeal site and Lough Rea via Knockanima Stream, which discharges to St. Claren River, at a location c. 50 metres north-east of Lough Rea, there is the potential the water quality pertinent to **Lough Rea SAC** to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons during both the construction and operational phases of the proposed development. Lough Rea SAC is also particularly sensitive to eutrophication. Common sources of such contaminants include fertilizer and sewerage. Noting the nature of the proposal it is unlikely fertilizer would be used on the site. Foul sewer from the proposed development is being treated in Loughrea Waste Water Treatment Plant and therefore effects from this source can be discounted.

6.9.28 Given the connectivity between the appeal site and Lough Rea via Knockanima Stream, which discharges to St. Claren River, at a location c. 50 metres north-east of Lough Rea, wetland habitat within **Lough Rea SPA** has the potential to be impacted from potentially polluted surface water, i.e. contaminants such as silt from site clearance and other construction activities and also from the release of hydrocarbons during both the construction and operational phases of the proposed development. Species of bird that may graze on aquatic plants and algae could also be impacted from potentially polluted surface water during the construction phase of the proposed development.

6.9.29 There is a recent planning application for 7 no. houses to the immediate south of the site (see PA Ref. 21/164). An NIS accompanied this application and it was concluded that subject to the implementation of the proposed mitigation measures the proposed development would not affect the integrity of any European site. I therefore do not consider that the development permitted under PA Ref. 21/164 could result in in combination impacts when considered alongside the development proposed under this appeal.

6.9.30 Assessment of proposed Mitigation Measures - The NIS outlines a number of mitigation measures. For the most part the mitigation measures are intended to avoid the release of contaminated run-off to Knockanima Stream. A number of issues arise in respect of the proposed mitigation measures and I consider that the NIS is deficit as a result.

- Firstly, the mitigation measures are not specific to each identified impact. The NIS should present the necessary analysis to demonstrate how any proposed mitigation measures will avoid or remove the risks of those adverse effects identified, so that the final analysis is undertaken in the context of the predicted residual effects.
- The NIS does not provide sufficient information regarding the monitoring of each mitigation measure or identify actions which will be taken in the event of the failure of a particular mitigation measure. Reference is made in a supporting document (Cyril J Kelly) to the operation of the silt trap being overseen by a site engineer however no further details are provided in relation to the other measures.
- Additionally, it is not clear who will be responsible for the implementation of the mitigation measures.
- It is also noted that some of the mitigation measures are prefaced with 'should' and 'must', as distinct from measures that 'will'/'shall' be undertaken. It is therefore unclear if all the measures outlined in the NIS are to be implemented. Elsewhere, other mitigation measures are simply statements, and are not specific, for example 'good site management will ensure that surface water and groundwater will be protected from accidental contamination'.
- No detail has been provided regarding the silt traps, including where they are to be placed.
- The SSFRA contains surface water management measures, specifically works at Knockanima Stream (see Paragraph 6.4.4 above). The NIS does not refer to these measures and it is therefore not clear what implications/if any these measures have on the proposed development in the context of Appropriate Assessment, the implementation of mitigation measures etc.

6.9.31 In summation, I do not consider that the proposed mitigation measures are suitably detailed or clear regarding addressing potential adverse effects. Additionally, I do not consider that sufficient monitoring of the mitigation measures, or safeguards to address their potential failure have been provided for. I am therefore not satisfied that the measures are sufficient to address potential impacts from pollution during construction and operation, disturbance to QI associated with European sites, and

that the potential for deterioration of habitats and species identified within the European Sites is not likely.

6.9.32 Integrity test. Following the appropriate assessment and the consideration of mitigation measures, I am unable to ascertain with confidence that the project would not adversely affect the integrity of Lough Rea SAC and Lough Rea SPA in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

6.9.33 Appropriate Assessment Conclusion. The proposed development has been considered in light of the assessment requirements of Sections [177U and 177V] of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Lough Rea SAC and Lough Rea SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, could individually, adversely affect the integrity of Lough Rea SAC and Lough Rea SPA, in view of the site's Conservation Objectives. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of Lough Rea SAC and Lough Rea SPA.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.

Particular concerns are expressed in relation to;

- The non-specific relationship between the proposed mitigation measures and the impact which they are intended to address, and ambiguity in relation to terminology used in respect of mitigation measures.
- The absence of information regarding the monitoring of each mitigation measure or the identification of action(s) which will be taken in the event of the failure of a particular mitigation measure.
- The likelihood of flooding on the appeal site, in particular on the southern part of the appeal site and its implication for the efficacy of mitigation measures and

consequently the potential deterioration of water quality, which has not been adequately assessed.

- Practical considerations regarding the implementation of specific mitigation measures, in particular the absence of details regarding mitigation measures, specifically the silt traps.
- The NIS refers to the site visit/ecological survey/site walkover as having been undertaken on the 26th September, and elsewhere the 29th September and also the 1st October 2021. The number of site visits/surveys conducted and their timings are important considerations and accuracy is required in this regard.

6.9.31 As such, I consider that there remains a reasonable scientific doubt as to the absence of adverse effects on the integrity of on Lough Rea SAC and Lough Rea SPA as such the Board is precluded from granting permission for the proposed development.

6.10 Other Issues

6.10.1 Irish Water have provided Confirmation of Feasibility in relation to water supply. I note that the Irish Water Pre-Connection Enquiry Form submitted by the applicant with the application notes that the watermain network to which the customer is proposing to connect is a private Group Water Scheme however this GWS is supplied by the Irish Water network and the Irish Water Regional contractor can facilitate a connection. The Irish Water correspondence states that it will be the applicant's responsibility to ensure that permission is in place from the private Group Water scheme to allow the physical connection works to be undertaken and the customer will be responsible to assess and confirm that the private Group Water Scheme watermain has capacity and is structurally adequate to cater for their development demands. As Irish Water have not identified any specific capacity issue in relation to water supply and have stated that the Irish Water Regional contractor can facilitate a connection, I consider the proposal to be acceptable in this regard.

7.0 Recommendation

7.1 I recommend that planning permission for the proposed development should be refused for the reasons and considerations set out below.

8.0 Reasons and Considerations

1. On the basis of the information submitted with the planning application and the Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Lough Rea SAC (Site Code: 000304) and the Lough Rea SPA (Site Code: 004134), or any other European site, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission.
2. The "Urban Design Manual – a Best Practice Guide" issued by the Department of the Environment, Heritage and Local Government (2009), to accompany the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas includes key criteria such as context, connections, inclusivity, variety and distinctiveness, which criteria are embedded in the guidelines. It is considered that the development as proposed results in a poor quality of residential design that is substandard in its scale and layout and fails to provide high quality usable open spaces. Furthermore, the proposed layout fails to adequately address the site topography resulting in a visually prominent development. The proposed development would therefore be contrary to these Ministerial Guidelines and would therefore be contrary to the proper planning and sustainable development of the area.
3. It is considered that the internal road layout, by reason of the lengthy stretches of straight roads, would be in material conflict with the principle and design concepts set out in the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment Community and Local Government in March 2013. The

proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Ian Campbell
Planning Inspector

5th July 2022