



An
Bord
Pleanála

Inspector's Report ABP-312841-22

Development	Construction of 98 dwellings, 1 childcare facility, 1 pumping station and all associated ancillary development works. A NIS has been submitted to the planning authority.
Location	Rathgowan , Mullingar , Co Westmeath
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	2197
Applicant(s)	Glenveagh Homes Ltd
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	First / Third Party
Appellant(s)	1. Russell MacNabb 2. Ashfield Residents
Observer(s)	None
Date of Site Inspection	27 th of July 2022
Inspector	Caryn Coogan

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1.0 Site Location and Description

- 1.1. The subject site, forms part of a 5.95Ha landholding (owned by Westmeath Co.Co.) which is currently the subject of two separate planning applications for housing developments. This current appeal/site relates to Phase 1 of the overall scheme (total 181No. dwellings).
- 1.2. The subject site is a greenfield located within the zoned area of Mullingar town, north- west of the town centre. The general neighbourhood is residential with estates to the north, south and immediate east of the site. There are a number of social and community facilities within walking distance of the site. Mullingar Town Centre is within a 10-15minute walk of the site.
- 1.3. The site is currently accessed from C-Link Road (R394) which links the N4 to the N52 i.e. north and south of the town. There is an existing roundabout at the entrance to the site located along the northern boundary of the site.
- 1.4. To the northeast of the site is Ashefield estate, a suburban two storey residential estate. There is a row of semi-detached units backing onto the site along the north-eastern boundary. The common boundary is a mature hedgerow which includes a number of gaps providing clear views into the subject site. There are more houses within Ashefield along the eastern site boundary. These dwellings are configured perpendicular to the subject site. There is a mature hedgerow along the eastern site boundary.
- 1.5. The C-link Road (R394) forms the northern and western site boundary. There are agricultural lands on the opposite side of the C-link road to the subject site. One of the appellants lands is located on the opposite side of the C-Link Road to the proposed site.
- 1.6. To the south of the site, along Ashe Road, is Phase 2 of the overall proposed development, which is the subject of another appeal for housing (*Reference ABP 313091-22 the construction of 83 No. residential units and all associated ancillary development works*).
- 1.7. The subject site is relatively flat, with a number of minor undulations throughout the site, most noticeably the site rises from west to east. There is a mature hedgerow to the north-east and east of the site along the common boundary with Ashefield. The

site is currently two grassed fields with pylons going through it. There is a footpath along the carriageway of the C-link Road and a road cycle way along L1000 to the south of the site. The boundary along the C-link Road is a concrete post and rail fence giving clear views into the site from the main roads and roundabouts.

- 1.8. There is an ESB substation, which includes a large telecommunications mast, along Ashe Road jutting into the site along the southern site boundary. To the south of the Ashe Road (L1000) there is housing existing. It is a suburban residential area, with national school within walking distance of the town centre. At the south east extremity of the site there are two small apartment blocks currently under construction. On the opposite site of Ashe Road to this site are duplex units fronting Ashe Road and the local Gaelscoil. The Mullingar Educate Together primary school is to the south of the site along the C-Link Road. The Mullingar Midlands hospital is along located further north of the site along the C-Link Road.
- 1.9. To the west off another main roundabout along the R394, is another Regional Road, R939, which is flanked by ribbon development housing, and beyond the R394 to the west are agricultural fields.
- 1.10. There are no rivers or streams bounding or traversing the site.

2.0 Proposed Development

- 2.1. This proposal is **Phase 1** of one large scheme which is the subject of two planning applications, both of which are currently under appeal with the Board. Phase 1 and this current appeal comprises of 98No. residential units, 1No. childcare facility, 1No. pumping station and all associated ancillary works.
- 2.2. The residential units consist of:-
 - 20No. two-bedroom units;
 - 50No. three-bedroom units
 - 4No. four-bedroom units
 - 8No. 1 bedroom maisonette units
 - 8No. two-bedroom duplex units
 - 8No. three-bedroom duplex units.

The elevation design and finish of the houses is ordinary.

The vehicular access to the site is via an existing roundabout on the R394 (C-link).

The proposed childcare facility is adjacent to the northeast boundary. It is a detached single storey building with 29No. childcare spaces and associated parking.

There is a detached building at the northern extremity of the site which will accommodate a pumping station.

Other features of the proposed scheme include:

- A pedestrian link along the south-eastern site boundary with a shared surface zone with Ashfield housing estate.
- Carparking in parallel and perpendicular format at the front of the proposed dwellings.
- Surface/ storm water management via oil/ petrol interceptor and attenuation tanks proposed under the open space area.

2.3. **Phase 2** is on the southern portion of the landholding. Phase 2 is currently under appeal, reference *ABP 313091-22* –the construction of 83 No. residential units and all associated ancillary development works.

2.4. The subject site is owned by Westmeath Co. Co. The application drawings were accompanied by a Planning Report, which included an artist's impression, Figure 6 of the entire development (Phases 1 and 2).

2.5. A **Natura Impact Statement** was submitted with the planning application. The Appropriate Assessment carried out considered potential affects on Lough Owel SPA and SAC and Lough Ennell SPA and SAC and ruled other Natura 2000 sites within the zone of influence. The application is also accompanied by an Ecological Impact Assessment, A Flood Risk Assessment, a Preliminary Construction Management Plan, A Construction and Demolition Waste and By-Product Management Plan, and Operational Waste Management Plan and an Environmental Impact Assessment Screening Report.

2.6. **Further Information:** On the 22nd of April 2021 Westmeath Co. Co. sought further information on a number of outstanding issues. A response was received on 13th of July 2022, with a number of revised drawings relating to cycle facility, site services

layout, House Types, Open Space and a landscape plan. There was clarification of further information received on the 3rd of December 2021 which mainly included House Type Plans, bicycle and bin storage details.

3.0 Planning Authority Decision

Westmeath Co. Co. granted planning permission for the proposed development on the 4th of February 2022, subject to 22No. standard planning conditions relating to residential developments.

3.1 Planning Authority Reports

3.2 *Planning Report 1 dated 22/04/21 :*

- Detailed the third-party concerns expressed in the 9No. submissions.
- Planning Policy indicated.
- Reports received internally and externally considered.
- The proposed development is acceptable in terms of the planning policy governing Mullingar. The planning application is accompanied by an Urban Design Framework Plan.
- The net area developable of the 5.95Ha site is 4.97Ha, and the overall design provides for a net density of 36.4 dwellings per hectare. The site excludes a sterile zone below the 38kVa power line traversing the site. The current site is 3.71 ha.
- There is an appropriate mix of dwelling types on the site.
- The duplex units are along the C link Road, and a streetscape drawing should be provided. There should be additional tree planting as the proposal provide limited biodiversity.
- Calculations of passive and active open space area required.
- Certain design features of the scheme are questions and should be revised by way of further information.
- The pedestrian link to an adjoining estate is considered to be acceptable.

- The childcare spaces available within the proposed creche are deemed to be within Guidelines requirement.
- Impact on bats will be negligible. An Ecological Impact Assessment Report, there will be no significant impacts anticipated.
- The site-specific Flood Risk Assessment estimates the lands are not at risk of flooding.
- A sub-threshold EIA is not required.
- Further Information is recommended

3.3 Planning Reports 2 & 3

Both assessed the further information received and recommended a grant of planning permission.

3.3 *Other Technical Reports*

Housing- Standard Part V condition.

Engineer Report: A revised cycle/ footpath on Ashe Road consisting of a two way cycle lane i.e. 0.75m grass verge, 2.5m cycle way and 2metre footpath, both parallel for the frontage along Ashe Road showing separation west of the ESB substation.

OPW Preliminary Flood Risk Assessment (PFRA) Maps indicates that a site is at risk of minor pluvial flooding

3.4 Prescribed Bodies

Irish Water: A connection agreement is required.

Department of Tourism , Sport, Arts, Gaeltacht, Sport and Media: Archaeological report noted. Recommendation that any archaeological features identified should be excavated as recommended by the archaeological report.

3.5 Third Party Observations

There were a number of. third party submissions objecting to the proposed development at planning application stage. A summary of the concerns expressed were as follows:

- There concerns regarding overlooking of adjoining dwellings
- The proposed includes an excessive density

- There should be no pedestrian links through Ashefield estate because existing links lead to anti-social behaviour.
- The scheme should be more open, more child friendly.
- The social housing locations should be relocated away from existing dwellings
- There should be no trees or hedges removed along site boundaries
- The finished floor levels of the proposed dwellings backing onto Ashefield properties are higher than the existing houses and will negatively impact on existing residential amenities in terms of overlooking and overshadowing
- Noise and dust pollution from construction work.
- A revised landscaping scheme is required to taken into consideration the views from existing adjoining properties
- House Nos. 3-16 should be removed to reduce the overall density of the scheme and reduce overall impact of the proposed development.
- The carparking proposals are insufficient with one space per dwelling.
- No electric car charges proposed
- There is flooding on the subject site. There was quarrying on the site previously.
- The relevant landowners were not consulted regarding the Urban Design Framework for the entire area which included lands outside of the subject site particular on the opposite side of the road to the proposed scheme.

4.0 Planning History

4.1 ***Subject Lands:***

(i) Planning Reference 97/677

Permission granted for a 38Kv line from the existing 100kv substation through a number of townlands to the existing 38kv station in Mullingar.

(ii) Planning Reference 21/139 ABP Ref 313091-22

Glenveagh Homes Ltd (applicant to this current appeal) has applied for 83No. dwellings and a pumping station. The case is also under appeal with the Board following a grant of planning permission by Westmeath Co. Co.

4.2 **Adjacent Lands:**

To the South east, Planning Reference 19/6121 Green Door Designs

Construction of 18No. apartments in 2 Blocks. This development is currently under construction and near completion.

5.0 **Policy Context**

5.1 **Section 28 Ministerial Guidelines**

5.1.1 The directly relevant section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009)
- Design Standards for New Apartments Guidelines for Planning Authorities (as updated 2020)
- Design Manual for Urban Roads and Streets (DMURS) (2013)
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)
- Childcare Facilities Guidelines for Planning Authorities (2001) and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme

5.2.1. The **National Planning Framework (NPF)** supports the development of Ireland's cities and urban areas to achieve compact growth.

The following National Policy Objectives are noted in particular:

- NPO 3C: Deliver at least 30% of all new homes that are targeted in settlements other than the five cities and their suburbs, within their existing built-up footprints.
- NPO 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

- NPO 13: In urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- NPO 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
- NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- NPO 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.

5.3 **Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031**

5.3.1. Mullingar is identified as a KEY TOWN : Large economically active service and/or county towns that provide employment for their surrounding areas and with high-quality transport links and the capacity to act as growth drivers to complement the Regional Growth Centres. The policies for Key Towns include:

RPO 4.26: Core strategies in local authority development plans shall support objectives to achieve a minimum of 30% of housing in Key Towns by way of compact growth through the identification of key sites for regeneration.

RPO 4.27: Key Towns shall act as economic drivers and provide for strategic employment locations to improve their economic base by increasing the ratio of jobs to workers.

The following towns have been designated as GATEWAY REGION KEY TOWNS :-

Longford Town, **Mullingar**, Tullamore, Portlaoise and Graiguecullen (Carlow), are large economically active towns located within the Gateway Region.

These towns provide important connections with adjoining regions and have the capacity and future growth potential to accommodate above average growth in tandem with the requisite investment in employment creation, services, amenities and sustainable transport.

Mullingar

The town of Mullingar, with a population of 20,928 in 2016 is located on the Dublin to Sligo rail line and M4 motorway, provides an essential role in supporting population and job growth and in this regard acts as a crucial centre for the surrounding hinterland. The advancement of Mullingar includes the promotion of economic development and employment creation; support for the development of the town's assets in built and natural heritage; encourages the continued investment in arts, culture and outdoor recreational activities including walking, cycling, fishing, boating, eventing and sports; and provides for the continued development of the tourist economy.

Regeneration: The consolidation and regeneration of Mullingar is a key priority to support the overall role and function of the town.

Residential Development: The provision of housing plays a fundamental role in the overall economic, social and environmental success of the settlement. It is essential to ensure an effective supply of land for the provision of housing and that high quality development is secured in the right place at the right time. A range of well-designed housing types that meet the needs of a variety of households will help to sustain and enhance the settlement, contributing to the creation of a high quality place.

5.2 Local Planning Policy

5.2.1 Westmeath County Development Plan 2021-2027

This Plan came into effect May 2021. Mullingar is identified as a 'Key Town' in the 'Gateway Region' where its main function is 'Large economically active service county town that provides employment for the surrounding area with high quality

transport links and the capacity to act as growth drivers to complement the Regional Growth Centres.

Core Strategy Policy Objectives	
It is a policy objective of Westmeath County Council to:	
CPO 2.5	Support the continued growth and sustainable development of Mullingar to act as a growth driver in the region and to fulfil its role as a Key Town in accordance with the principles and policies of the RSES.
CPO 2.6	Prepare a Local Area Plan (LAP) for Mullingar to align with the RSES and this Core Strategy.

An objective of the plan is to increase densities in appropriate locations.

CPO 16.24 states that increased density in Mullingar is acceptable in principle where subject lands are within walking distance of the town centre or are adequately serviced by necessary social infrastructure and public transport and or designated regeneration sites.

2.17 Core Strategy Table

Following the population allocations set out in the Core Strategy Table, zoning maps are provided to reflect these figures and to indicate the quantum and locations of future development for the plan period. It is considered that the lands identified for residential development are sufficient to meet the population targets set out in the Core Strategy Table and reflect each settlements role in the Settlement Hierarchy. The amount and location of zoned lands required in each settlement was determined using an evidence-based settlement typology and asset-based approach, as detailed in Section 2.7.

Table 2.9: Core Strategy Table

Settlements	Population 2016	Population 2027	Population Change 2016-2027	Quantity of Land Area Required (Ha)	Proposed Residential ** (Ha)	Proposed Residential (Brownfield)	Proposed Residential** (Infill)	Consolidation Sites (Ha)	Equivalent Area Zoned Proposed Residential	Housing Yield*
Tier 1 Regional Growth Centre										
Athlone (Ex. Roscommon)	16,612	22,154	5542	UAP		> 30%	> 30%			2590
Tier 2 Key Town										
Mullingar	20,928	26,003	5075	LAP		> 30%	> 30%			1340-2010

5.2.2 Mullingar Town Development Plan 2014-2020

In the town development plan the site is zoned for **Residential** use and the following objective is applicable:

O-LZ1 – To provide for residential development associated with services and to protect and improve residential amenity.

The zoning map is included in the Appendix of this report. The residential zoning is obvious and the site is located within 19.75ha designated as a future Urban Planning Framework Plan area.

Relevant Development Policy Statements:

2.6 HOUSING

AIM: To facilitate the provision of high quality residential development in sustainable communities and provide an appropriate mix of house sizes, types and tenures in order to meet the different household needs of the people of Mullingar.

2.7 HOUSING POLICIES & OBJECTIVES

It is the policy of the Council:

P-H1 To facilitate residential development in Mullingar in line with its designation as a Linked Gateway Town, as prescribed in the Regional Planning Guidelines and the County Development Plan, and to ensure that this development reflects the character and setting of the existing built form, in terms of structure, pattern, scale, design and materials with adequate provision of open space, and which also protects the amenities of existing dwellings.

P-H5 To ensure, in accordance with Part V of the Planning & Development Acts 2000 as amended that arrangements for the provision of Social and Affordable Housing are made in accordance with the current Housing Strategy.

P-H7 To ensure the provision of a suitable range of house types and sizes to facilitate the demographic profile of the town.

P-H8 To have regard to the provisions of the 'Guidelines on Sustainable Residential Development in Urban Areas'(2009)and the accompanying 'Urban Design Manual' in assessing applications for housing development.

P-H9 To require diversity in the form, size and type of dwellings within residential schemes.

P-H12 To ensure that the density and design of development respects the character of the existing and historic town in terms of structure, pattern, scale, design and materials with adequate provision for open space.

2.8.2 HOUSING TYPE POLICIES & OBJECTIVES

P-HT1 To ensure a mix and range of housing types and in particular two bedroom accommodation, to meet the diverse needs of residents of the town.

P-HT2 To ensure all new residential schemes are designed so that units are easily adaptable in the future to accommodate housing for life.

P-HT3 To support independent living for people with disabilities and the elderly, and where possible, ensure that housing is integrated within proposed or existing residential developments and located close to existing community facilities.

2.10 SUSTAINABLE RESIDENTIAL DEVELOPMENT POLICIES & OBJECTIVES

It is the policy of the Council:

P-SR1 To support the principle of sequential development in assessing all new residential development proposals, whereby areas closer to the centre of the town, including underutilised and brownfield sites, will be chosen for development in the first instance to promote a sustainable pattern of development.

P-SR6 To ensure that new greenfield residential estate development should be in accordance with the Spatial Framework established in the relevant Framework Plan for the subject area, subject to infrastructural services being available.

P-SR7 To promote energy efficiency during both the construction phase and lifetime of residential development, by incorporating sensitive design and layout and having due regard to topography, orientation and the surrounding features of a site.

P-SR10 To ensure the development of sustainable residential communities through the promotion of innovative, high quality building design and layouts that prioritise non-car based movement and provide for a high level of permeability, accessibility and connectivity to the existing built environment, services and facilities.

P- SR13 To encourage appropriate densities for new housing development in different locations in the town, whilst recognising the need to protect existing residential communities and the established character of the area.

2.12 RESIDENTIAL DENSITY POLICIES

It is the policy of the Council:

P-RD1 To promote higher residential density development in the town centre and on brownfield and infill sites, subject to Development Management Standards being met, the Evaluation Considerations in the National Spatial Strategy being adhered to and existing residential amenity not being compromised.

2.14 RESIDENTIAL LAYOUT AND DESIGN POLICIES & OBJECTIVES

It is the policy of the Council:

P-RLD1 To achieve attractive and sustainable development and create high standards of design, layout and landscaping for new housing development.

P-RLD2 To determine the layout of new development before or at the same time as the road layout with connections to social infrastructure identified.

P-RLD3 To require that appropriate provision is made for amenity, public open space and social infrastructure as an integral part of new residential or extensions to existing developments.

P-RLD4 To ensure that all new housing schemes shall be designed to reduce energy demand and shall comply with the Building Regulations Energy Performance standards.

P-RLD9 To require permeable layouts within housing schemes and connectivity to adjoining areas and amenities.

5.3 Natural Heritage Designations

This issue is dealt with in detail in the Appropriate Assessment of this report whereby the sites within 15Km of the proposed site are listed, and each site is screened accordingly in terms of its Conservation Objectives and potential impacts.

5.4 EIA Screening

Environmental Impact Assessment (EIA) requirements derive from EU Directives. Council Directive 2014/52/EU and is transported into Irish law under The European Union (Planning and Development) Directive (Environmental Impact Assessment) Regulations 2018. The proposed development falls within one of the categories of the development specified in Schedule 5 of the Planning and Development Regulations 2001, as amended, which equals or exceeds a limit, quantity or threshold prescribed in that class of development must be accompanied by an Environmental Impact Assessment Report. Where a project is of a specified type but does not meet with or exceed the threshold then the likelihood of the project having significant effects on the environment needs to be considered.

The subject development does not fall within any of the specified classes of development set out in Part 1 of Schedule 5. The proposal for 181No. dwellings (phase 1 and 2) falls within the category of an 'Infrastructure project' within Schedule 5(10) (b) of the *Planning and Development Regulations*, relating to the construction of more than 500 Dwellings. The site area of 5.99Ha falls below the area EIA threshold for sites in built up areas.

The site is surrounded by Ashefield residential estate to the north, Raithin residential estate to the south. These two estates were completed separately in the 1990s/ 2000s To the southeast there is a planning permission, permitted under reference 19/6121, for 18No. residential units in two apartment blocks. This does not add a significant quantum to the cumulation of development in the area.

The development is on a greenfield site with low ecological value. It will be connected to the public water main and public sewer. A construction and environmental plan has been prepared as part of the planning application. There are no predicted environmental impacts associated with the proposed development. Certain dust and noise emissions will be short term. Therefore a sub-threshold environmental impact assessment is not required to accompany the planning application.

6.0 The Appeal

6.1 Grounds of Appeal

6.1.1 Mr. Russell MacNabb, Ashe Road, Irishtown, Mullingar

A summary of Mr. MacNabb's third party appeal is as follows:

The submission relates to the correct procedures as required to be employed when adjudicating on the subject lands and the requirement for an 'agreed' Urban Design Framework Plan to be in place and whereby the Urban Design Framework Plan should be made in 'full consultation' with the relevant landowners, as required in the adopted Mullingar Local Area Plan 2014-2020. Mr. McNabb was not invited to be party of the Urban Design Framework Plan, and he holds a critical price of infrastructure in respect of open space provision for the Urban Design Framework Plan.

This concern was raised at the planning application stage, but it was subsequently dismissed by the local planning authority who considered the Urban Design Framework Plan '*was not material to the assessment of the subject application*', being non-statutory.

Chapter 2 of the development plan states under Section 2.6 Housing, paragraph 2.6.3 and Figure 2.10

AIM: To facilitate the provision of high quality residential development in sustainable communities and provide an appropriate mix of house sizes, types and tenures in order to meet the different household needs of the people of Mullingar.

The decision to grant permission for the development materially contravenes the objectives of the development plan, in particular to engage in full public consultation with the relevant landowners.

Any plan should be assessed on the basis of SEA/AA and this has not occurred. The granted development affects Mr. MacNabb's landholding to the northwest side of the Link Road and forms part of the Urban Designated Framework Plan (UDFP) as indicated on attached map.

It is considered the Urban Design Framework should be undertaken for the total 19.75Ha as indicated in Fig. 2.10 of the development plan. *The Council would*

support the preparation of such a Plan in conjunction with the relevant landowners. The objective is to create sustainable communities at this location, characterised by high quality innovative design and permeable layouts, connectivity to adjoining residential areas and amenities, together with the provision of social, community and recreation facilities.

The appellant's landholding is currently presented to 'provide open space' for the UDFP and should be providing social, community and recreational facilities for the neighbouring and accompanying residential developments, as the development plan intends. The appellant did approach the applicant in June 2020, but no approach was followed up by the applicant. The appellant did miss the first 5-week period and his submission was returned. Once the application was readvertised at Further Information stage no contact was made by the applicant to the appellant either. The proper process has not taken place. The UDFP will not be achievable without the relevant landholders being in agreement and to ensure the UDFP would be fulfilled.

Mr MacNabbs landholding forms a significant land mass associated with the UDFP and where other landowners are assigned a residential zoning where development value is attainable. The UDFP process has not been shared with Mr. MacNabb. His lands are to provide Open Space whereas the majority of other lands within the UDFC provide for residential use. The appellants land is inextricably linked by the Framework Plan boundary and should rightly benefit from the values presented across the Framework Plan boundaries as he is ultimately prejudiced by gains of the neighbouring landowners to the detriment of his land.

6.1.2 Mr. Alan Reilly, c/o Ashfield Residents

Reason 1: Their multiple submissions were not taken into consideration by the planning authority particularly the impact of the proposed 14No. residential units adjoining their properties. The applicant was not asked to address their concerns in the further information. The 14No. dwellings should have been relocated away from their properties because their private amenities will be impacted upon.

Reason No. 2: They are concerned about the finished floor windows, separation distance and removal of trees which will result in loss of privacy and overlooking.

Reason No. 3: Shadow and Loss of Direct Sunlight: The Ashfield residential properties have a lot of sunlight to their rear due to their south elevations, and the

front of the dwellings receive no direct sunlight. The proposed finished floor levels and ridge heights will significantly reduce the amount of direct sunlight and the proposed houses will cause greater shading onto their rear gardens and south elevations. There was no shadow analysis carried out to highlight the shading and loss of light to the 14No. residential units to the rear of properties.

Reason No. 4: Proposed Finished Floor Levels: The finished ground floor levels increase from FFL +99.68m to FFL +100.93 (House units 14-16) , and the floor levels in the Ashefield estate decrease in level along the same direction with the greatest difference in floor levels being encountered at No.s 128 Ashefield and the proposed house.

Reason No. 5: High Density Residential Development On the proposed site layout plans the applicant omitted front garden areas and private parking spaces within each individual housing unit, thereby allowing the applicant to increase the number of residential units to 98 (Phase 1) and 83 (Phase 2). House numbers 3-16 should be removed from the scheme, which is 14No. dwelling units to avoid conflicts and reduced amenities between the existing and proposed units.

Reason No. 6: 1.9m High Boundary Wall Height

The 1.9metres height is too low to provide security to their properties.

There is no objection to the overall scheme only the location of the housing units that directly impacts upon their properties. They are extremely disappointed the landowner, the planning authority and the applicant's agent did not engage with them before making the planning application which would have produced an acceptable proposed site layout that would have satisfied all the stakeholders and avoided an appeal. The 14No. dwellings are positioned behind their dwellings on a higher ground level and the proposed scheme will negatively impact on their homes. It will affect the value of their homes and the amenity of their homes and BER ratings.

Westmeath Co. Co. own the lands therefore its decision is biased, and it did not take into consideration the concerns of the residents.

6.2 Applicant Response

The planning application was accompanied by a comprehensive set of drawings and reports and all items were comprehensively addressed. A summary of the response to the appeal is bulleted below:

- The Russell MacNabb appeal does not object to the proposed development outright, but he is primarily concerned about the requirement of an *'Urban Design Framework Plan'* as required under the Mullingar LAP 2014-2020.
 - The appellant has stated they have no comment or issue with the proposal, then there are no grounds or substance to their appeal and the planning appeal process is completely inappropriate and should be dismissed under Section 138(1)(a)(ii), on the grounds the appeal is without substance or foundation.
 - The second appeal by Ashfield Residents raise the same concerns as they did at the planning application stage which were comprehensively addressed at that stage of the planning process.
 - The response to the appeals is under three separate headings.
1. **The proposed development is fully in accordance with National Policy and the Westmeath County Council Policy and with the specific objective pertaining to the site.**

The Mullingar Local Area Plan (MLAP) provides that an Urban Design Framework Plan is to be undertaken for a 19.75 hectare plot where the objective is to prepare an Urban Design Framework Plan in order to create a sustainable residential community in this part of the town as per Map 2.2. It is stated the Council would support the preparation of such a plan in conjunction with the relevant landowners. Ultimately the preparation of the Urban Design Framework Plan lies with Westmeath Co.Co. and not with the landowners or developers. It is not a statutory requirement of the Mullingar LAP that an Urban Design Framework Plan be prepared and submitted with any individual planning application. This point is re-iterated in the planner's report, 28/09/2021. The applicant, Glenveagh Homes Ltd did submit a Urban Design Framework as part of the planning application.

The primary issue of the appeal is that Mr. McNabb was not invited to be party to the Urban Design Framework Plan, and there was no public consultation. This is not true because Mr. McNabb had time to comment on Phase 1 planning application reference 21/97 and Phase 2 Planning reference 21/139.

2. The proposed development will not seriously injure the residential amenities of properties in the vicinity and will enhance Mullingar as a whole by providing 98No. additional residential units to the area.

The applicants entirely disagree with Ashefield Residents that there will be overlooking and loss of privacy, and the difference in finished floor levels. The drawings submitted indicate the proposed units 3-16 are on a slightly higher finished floor level and ridge heights compared to neighbouring dwellings to the north-east.

In terms of the design, there is 22metres separation distance provided, a rear boundary wall of 1.9metres proposed, retention of existing mature planting and supplementary planting to alleviate potential for overlooking. The Planning Report acknowledged this in the assessment. The appellants expressed concern about overshadowing. The Section DD by Reddy Architecture illustrates the roof levels of the proposed dwellings are only 1.47metres above the existing units, and combined with the 22metres separation distance, it eliminates any issues of overshadowing. The Planners states the Drawing D-D section does not breach BRE tests section 2.2 and 2.3 relating to daylight and sunlight as the angle of the development from the neighbouring property is 19.4 degrees less than the 25 degree requiring further testing. There is a shadow analysis submitted to the Board on appeal based on March 20th and June 21st scenario at 9am, 12 noon and 5pm. Due to the orientation of the dwellings there is no impact at any time on June 21st and no impact at 9am or 12 Noon on March 20th. There is no additional impact at 5pm on March 20th because the existing boundary already casts a shadow in the rear gardens of Ashefield. There is no additional shadow cast as a result of the proposed units. The appellants have provided no technical evidence to support their case.

The appellants state the development is high density and request the removal of proposed dwellings No.s 3-16, and this will increase the privacy of all residents and avoid direct conflicts between opposing residents. The proposed density is in line with national policy and planning guidance. Higher densities are encouraged on outer suburban/ greenfield sites in urban areas. It is an objective of Westmeath County Development Plan CPO 16.24 to increase densities in the key towns. The net developable area of Phase 1 and Phase 2 is 4.97 ha and it can accommodate a net residential density of 36.4 No. units per hectare. This has been achieved without compromising the residential amenity of the area or adjoining properties. Any reduction in the proposed density will result in a negative impact in fulfilling national and the Council's objectives to deliver more housing within Mullingar.

3. The planning application was accompanied by a very comprehensive list of supporting material which were prepared to a very high standard and contain all the information required/ sought by the planning authority.

The appellants have questioned the ability of Westmeath to adequately assess the proposed development. They consider the planning authority did not assess their concerns in the further information. The Planning Report demonstrates that all material issues were carefully considered by the planning authority. The drawings, engineering drawings, landscaping and reports submitted were to a high standard, and all issues raised in the further information were comprehensively addressed by the applicant.

6.3 Planning Authority Response

There was no response received.

7.0 Assessment

7.1. I have visited the site and considered the appeal file, and the key issues of this appeal can be considered under the following headings:-

- Zoning/ Principle of the Development
- Urban Design Framework Plan
- Layout, Scale and Design

- Impact on amenities of adjoining properties
- Access and Parking
- Pedestrian Link/ Cycleways
- Drainage
- Other Issues
- Appropriate Assessment

7.2. Zoning/ Principle of the Development

The site is in an area zoned for **Residential** use in the *Mullingar Town Development Plan 2014-2020*, whereby the following objective is applicable, *O-LZ1 – To provide for residential development associated with services and to protect and improve residential amenity*. Also relevant in the Mullingar Town Development Plan are the housing policies which seek to facilitate the provision of high-quality residential development in sustainable communities and to provide an appropriate mix of house sizes, types and tenures in order to meet with various household needs in Mullingar.

The proposed development complies with the salient residential and housing policies outlined in the Westmeath County Development Plan and the current Mullingar Town Development Plan, as outlined in Section 5 above of this report. In the Westmeath County Development Plan, Mullingar is identified as a 'Key Town' in the 'Gateway Region'. An objective of the plan is to increase densities at appropriate locations in key towns. The subject site is a greenfield site, located in a residential area of Mullingar close to the town centre. It is a policy of the County Development Plan (**P-SR1**) *to support the principle of sequential development in assessing all new residential developments, whereby areas closer to the centre of the town.*

Any such developments would be expected to conform to the criteria set out in the Development Plan at the time of the decision, and National Planning Guidance including (not exclusively):

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009);
- Design Manual for Urban Roads and Streets (2013);
- Smarter Travel – A New Transport Policy for Ireland (2009-2020);

- The Planning System and Flood Risk Management (2009);
- Childcare Facilities: Guidelines for Planning Authorities (2001).

The site is owned by Westmeath Co. Co. It is located on the western fringe of Mullingar town within a residential area. The proposed development represents a natural progression of the residential component of the town. There is existing infrastructure in situ, including a vehicular access off a roundabout on an outer relief road called the C-Link. There is an existing footpath along the C-Link Road fronting the site. There are schools on close proximity to the site. There is also other community and social facilities within walking distance of the site including Mullingar Hospital to the north of the site.

The proposal complies with the residential zoning objective of the site. The proposal also complies with relevant and current housing policies in terms of providing housing on a sequential basis from the town centre to meet with the housing needs of all tenure types in Mullingar (P-H3, P-H4, P-SR1). In addition, it requires diversity in the form, size and type of dwellings within residential scheme, which is provided for in the scheme (P-H7 and P-H9).

In the Regional Spatial and Economic Strategy for the Region, Mullingar is identified as Key Town. In addition, the National Planning Framework supports delivering at least 30% new homes within existing built-up footprints of urban areas. The subject site is located within the built up footprint of Mullingar.

I would therefore conclude that, having regard to the zoning designation of the site, planning policy (national, regional and local), that the residential development of the site is appropriate and complies with planning policy, albeit subject to the design and amenity criteria set out in national guidance and the development plan.

7.3. Urban Design Framework Plan

Mr Russell McNabb's appeal claims the proposed development materially contravenes the development plan because the Urban Design Framework Plan stated in the Mullingar Local Area Plan 2024-2020 has not been implemented.

The Mullingar Local Area Plan provides that an Urban Design Framework Plan (UDFP) shall be undertaken for 19.75Ha as outlined on the Land Use Zoning Map,

MLAP14. It is stated in the Plan *'The Council would support the preparation of such a plan in conjunction with the relevant landowners. The objective is to create sustainable communities at this location, characterised by high quality innovative design and permeable layouts, connectivity to adjoining residential areas and amenities, together with the provision of social, community and recreation together with the provision of social, community and recreational facilities'*.

Mr. McNabb is a landowner within the Urban Design Framework Plan land designation, and his lands are currently presented as open space on the Zoning Map. The residual lands within the Urban Design Framework Plan are zoned for residential use, and only the appellant's lands are zoned open space.

The planning authority stated in the report of 28th of September 2021, that the Urban Design Framework Plan is not statutory and will not be relied upon in the event of future planning applications either within or outside of the plan area. On appeal, Mr. McNabb states the Urban Design Framework Plan is intended as a masterplan to include a number of landholdings and should be carried out in conjunction with the relevant landholders, and by not doing so, is contrary to the proper planning and development of the area and natural justice. It is considered that all the lands within the UDFP should have been zoned residential with open space distributed amongst the landholdings. Any decision on the current application is contrary to development plan objective, because Mr. McNabb considers the proposed development should not be considered in isolation of the Urban Design Framework Plan that would incorporate his landholding.

Having read the content of the development plan, I consider the preparation of the Urban Design Framework Plan is not a statutory requirement of the development plan or a compulsory component of any planning applications within the designated area. The issue of the zoning of Mr McNabb's landholding as Open Space is beyond the remit of this appeal. It would appear the appellant is attempting to link the proposed development of the subject site to his landholding by using the Urban Design Framework Plan designation as set out in the Mullingar LAP 2014-2020. In my opinion, the Urban Design Framework Plan is an aspirational objective and not statutory policy, therefore, it cannot form an integral part or an essential requirement of the current application. I consider the grounds of the appeal are unreasonable. A refusal of the proposed development on these grounds is unwarranted and

unjustifiable, and the grounds of appeal should be dismissed, as they are unreasonable having regard to the national, regional and local planning policy favourably disposed towards the proposed development.

7.4 Layout, Scale and Design

The site is accessed via a singular access route off an existing roundabout on the C-link Road. There are 98No. dwellings arranged along a central access road. The emphasis of the layout is to overlook the main open space areas and shared open space areas. The overall layout reflects the existing public road layout of the area and existing residential estates in the immediate neighbourhood. The proposal provides pedestrian and cyclist connections with linkages to the wider area being created along site boundaries. The internal road layout is designed to control traffic speeds through the use of cul-de-sacs. The dwellings are located and orientated to maximise frontage/ overlooking of the open space areas. There are 11No. house types which are designed with energy efficiency as a priority.

(i) Open Space

The open space and shared areas are situated in visible areas with ample passive surveillance. In Phase 1 open space accounts for 6,200sq.m. of land available for play and amenity which is approximately 10% of the total site area. The completion of Phase 2 will create in excess of 2,500sq.m. which ensures the overall scheme complies with the development plan standards for public open space. There is a comprehensive landscaping scheme to integrate the housing, play areas and open space areas.

The bulk of the public open space area in Phase 1 is located alongside the C-Link Road with a linear pocket along the eastern site boundary, another two pockets located alongside Phase 2, and a small linear strip between blocks of dwellings. The open space areas are dispersed throughout the scheme. The open space pockets are linked and dissected by pathways.

(ii) Landscaping

There were revised landscaping proposals submitted at the further information stage that provided for additional tree planting throughout the scheme, throughout the streets and along the site boundaries in particular the northern and south-eastern

site boundaries to reinforce existing hedgerows and provide screening. The Landscape Plan is Drawing No. LA-PH1-RF1.

(iii) Boundary Treatment

The boundary treatment along the C-Link Road includes for 2.2m Cycle Lane and footpath. There is an open space area between the cycle-lane/ footpath and the building line of the proposed dwellings creating an open setback from the main public carriageway.

The most contentious boundary is along the north-eastern site boundary, where proposed house numbers 1-16 back onto the site boundary with existing two storey dwellings from Ashefield backing onto a common boundary. The existing common boundary is a mature hedgerow. However, there are areas along this hedgerow that have been removed and the rear elevations of the existing dwellings are exposed when viewed from within the site, (please refer to the photos plates 8-10 taken on my site inspection). Along this entire boundary, the applicant proposes to retain the existing hedgerow. There will be additional planting provided along the boundary of Ashefield where the hedgerow was removed. A 1.9metre boundary wall is also proposed at along the boundary to provide additional security and privacy.

There will be supplementary native hedge and tree planting along the eastern site boundary with Ashefield, and to the south along the common boundary with the apartments currently under construction (granted under planning reference 19/6121).

7.6 Adjoining Residential Amenities

7.6.1 The second appeal is from residents of Ashefield who collectively claim the impact of the proposed 14No. residential units backing onto the adjoining Ashefield was not taken into consideration during the assessment of the planning application. It is submitted the proposed 14No. dwellings should have been relocated away from the north-east site boundary because their amenities will be negatively impacted upon in terms of overshadowing and loss of privacy.

I believe, the layout of the entire Ashefield estate should be examined in the context of the residents' concerns. Ashefield estate includes semi-detached dwellings laid out in a cul de sac formation off a spinal route. There are a high number of semi-detached dwellings back to back, similar to the proposed layout along the north-east

boundary, similar to which the residents are currently objecting to under this current proposal. There is an existing precedent for the proposed form of residential layout in the area. The proposed and existing residential layouts are typical of suburban layouts nationwide. The residents failed to acknowledge this issue in their grounds of appeal already exist within the Ashfield housing estate. Notwithstanding this, I will examine their grounds of appeal.

7.6.2 The residents are concerned about the finished floor levels, separation distance and removal of trees which will result in loss of privacy and overlooking to their properties. Presently there is a mature hedge along the common boundary between the existing and proposed dwellings. In terms of the design there is 22metres separation distance provided between the opposing two storey semi-detach units, a rear boundary wall of 1.9metres proposed, in addition to retention of the existing mature planting along the boundary and the provision of supplementary planting to alleviate potential for overlooking.

7.6.3 The Ashfield residents claim their residential properties have a lot of sunlight into their rear gardens and rooms due to their southern elevations. The front of the dwellings receive no direct sunlight. The residents claim the proposed finished floor levels and ridge heights will significantly reduce the amount of direct sunlight associated with the rear of their houses. The proposed houses will cause greater shading onto their rear gardens and south elevations.

Building Research Establishment (BRE) in its document, *Site Layout Planning for Daylight and Sunlight: A guide to Good Practice*, states all structures will create areas of new shadow, and some degree of transient overshadowing of a space is to be expected. The BRE Guide recommends that at least half of the area of an external should receive at least two hours of sunlight on March 21st, if as a result of new development, external spaces receive less sunlight then this standard is likely to be noticeable. Given the height and massing of the proposed dwellings, the separation distances between the existing dwellings and adjoining properties, the size of the existing gardens, the proposed development will not lead to a loss of sunlight greater than the standard recommended in the BRE Guide. The potential loss of sunlight will be negligible.

The angle of the development from the neighbouring properties is 19.4 degrees , which is less than the 25 degree requiring further testing. There is a shadow analysis submitted to the Board on appeal based on March 20th and June 21st scenario at 9am, 12 noon and 5pm. Due to the orientation of the dwellings, there is no impact at any time on June 21st and no impact at 9am or 12 Noon on March 20th. There is no additional impact at 5pm on March 20th because the existing boundary already casts a shadow in the rear gardens of Ashefield. There is no additional shadow cast as a result of the proposed units. The appellants did not substantiate any of their claims with technical data. The applicant refuted their claims with technical data.

7.6.4 There is concern expressed regarding the finished ground floor levels increase from FFL +99.68m to FFL +100.93 (House units 14-16) , and the existing floor levels in the Ashefield estate decrease along the same direction with the greatest difference in floor levels being encountered at No. 128 Ashefield and the proposed houses. In my opinion, The difference in ground level between the properties, at 1.47metres is a non-material issue given the separation distance between the opposing ridge heights. There are no steep gradients or embankments between the properties. There is no technical evidence submitted by the third parties to demonstrate how there is a material loss of light to their properties or undue loss of amenities due to overshadowing. Given the depth of the rear garden areas, 11metres each, there will be no signifigant loss of sunlight associated with the difference in finished floor levels.

7.6.5 The appellants submit House numbers 3-16 should be removed from the proposed scheme, which are the 14No. dwelling units backing onto their properties in Ashefield, to avoid conflicts and reduced amenities between the existing and proposed units. They claim, the omission of the dwellings would also lead to a more acceptable density on the subject site. I disagree with the appellants on the issue of the proposed density because national and local planning policies require higher densities on greenfield zoned lands in key towns. Higher densities are encouraged on outer suburban/ greenfield sites in urban areas. It is an objective of Westmeath County Development Plan to increase densities in the key towns. The net developable area of Phase 1 and Phase 2 is 4.97ha and it can accommodate a net residential density of 36.4 No. units per hectare. This has been achieved without

compromising the residential amenity of the area or adjoining properties. Any reduction in the proposed density will result in a negative impact in fulfilling national planning policy and the Council's objectives to deliver more housing within Mullingar

7.7 Pedestrian Links/ Cycleways

The pedestrian links and cycleways formed a serious concern for third party objectors during the assessment of the planning application. There are two pedestrian links proposed:

- (i) A pedestrian link at the north-east extremity of the site from the proposed development into the adjoining Ashefield Estate. This link was revised in the further information submitted on 13th of July 2022 to include a 1.8m wide footpath.
- (ii) At the eastern boundary of the site onto Ashe Road., is a combined cycleway/ pedestrian link. The proposal includes for a 2way cycle lane in accordance with Section 1.5 of the National Cycle Manual, a 2metres footpath and an appropriate roadside verge.

Both links are proposed to provide connectivity to the town and general area from the proposed scheme. Phase 1 and Phase 2 of the overall scheme includes a shared cycle lane and footpath along the full length of the C-link road and turns east along Ashe Road towards Mullingar town. The vehicular traffic is restricted from entering this laneway.

In terms of the pedestrian access onto Ashefield estate, to the north-east of the site, there is a pocket of open space within Ashefield where existing houses front onto the open space area. There is a footpath fronting the existing dwellings and a turning point at the end of the cul de sac. Presently there is a mature hedge along the common boundary, and the new pedestrian link from the proposed development will involve extending the existing footpath. The proposed layout in the immediate vicinity of the proposed link includes dwellings facing onto the road and surveillance of the link is ensured to prevent any antisocial behaviour and provide a secure route between the residential developments. There is no loss of privacy associated with extension of the existing public footpath. This route will provide a direct pedestrian route to the C-link road towards the general hospital and nearby schools. There are open space areas mirrored within the contiguous residential developments. The

proposed access will be subtle defined by two brick piers 1.5metres in height and the mature hedgerow will be reinforced/ replanted along the site boundary, please refer to Further Information Drawing: P-19-235K-RAU-01-XX-DR-A-37100.

On balance, I consider the proposals regarding pedestrian links to be acceptable and in keeping with DMURS principles.

7.8 Access and Parking

There were consultations with the relevant engineering departments within the planning authority during the assessment of the planning application, the main access to the proposed development is off an existing roundabout along the C-link Road located along the western boundary of the subject site.

The design approach is to provide a strong urban edge onto the C-link Road of 2No. three storey blocks of duplex units. DMURS (Section 4.4.9 page 117) states on-street parking can calm traffic by increasing driver caution, contribute to pedestrian and cyclist safety, reduce the need to kerb mount and provide good levels of passive surveillance. It should be noted there is both perpendicular car parking and parallel parking throughout the scheme.

The proposed access arrangement off the roundabout, is acceptable in traffic safety terms. Through traffic is restricted off Ashe Road to the south of the overall scheme, Parking provisions are in accordance with the Mullingar Local Area Plan 2014, with parking provided within the curtilage of the unit or in shared locations.

7.9 Drainage

It is proposed to connect to the public water mains and public sewer. A pumping station is proposed in the north-west corner of the site. The applicant must sign a connection agreement with Irish Water prior to the commencement of the development. There shall be a watermain data flow provided in relation to the adjacent 400mm diameter water main.

Surface/ storm water management via oil/ petrol interceptor and attenuation tanks are proposed under the open space area.

7.10 Other Issues

The existing 38kVA line traversing the site will be redirected underground removing the pylon from the site, and this will enable improved external amenity areas for the residents because a number of the open space pockets were located under the overhead lines.

There is a 29No. child place creche proposed at the north-east of the site. It includes a private outdoor open space area, landscaping and car parking. The proposed crèche is accessed from the estate road. A set down area is located to the west of the creche.

The application proposes to transfer 10No. dwellings under the Part V of Section 96 of the Planning and Development Act 2000.

The curtilage parking areas will be wired for Electric vehicle charging. The development plan policy states all developments should provide facilities for the charging of battery-operated cars at a rate of up to 10% of total carparking spaces.

There was a Flood Risk Assessment Report prepared by Tobin Consulting Engineering. Based on previous flood studies in the area by the OPW (CFRAM and PFRAM) it is estimated the propose development site is not at risk of fluvial flooding from the River Brosna. No past events have been reported within 500metres of the site and those reported in Mullingar have been attributed to the River Brosna and its tributaries overflowing after heavy rainfall. There is no flood risk associated with the Rathgowan land drain which runs through the subject site as it has sufficient capacity to alleviate extreme pluvial flooding in the area indicated by the PFRA study.

A Road Safety Audit Stage 1 and 2 provided practical and reasonable recommendations.

The planning application also includes recommendations for Construction Traffic Management, Construction Environmental Management, Construction and Demolition Waste and By-Product Management Plan, , Operational Waste Management Plan, and an Ecological Impact Assessment Report

8.0 Appropriate Assessment

The planning application includes an Appropriate Assessment Screening and a Natura Impact Statement.

The proposed development is for 98No. residential units in the built-up area of Mullingar to be accessed off the C-Link Road. The footprint of the development is located in Rathgowan, Mullingar which is not within or beside any Natura 2000 sites. Therefore, it is necessary to determine whether the project alone or in combination with other plans or projects is likely to have a significant impact effect on any Natura site.

The proposed site is located in the townland of Rathgowan on the western edge of Mullingar town. The site is approximately 400metres south of the Abbeylands stream which discharges to the River Brosna a tributary river of Lough Ennell SAC and SPA. The site is not hydrologically connected to this stream. There are no drainage ditches or streams on or adjacent to the site. The nearest drainage ditch is located on lands to the west of the R394(C-Link) approximately 50metres from the site boundary and separated from them by the R394 and an area of grassland. . There is a Construction and Environmental Management Plan (CEMP) prepared to ensure measures are in place to protect the receiving urban environment. The nearest sites are as follows and considered within the 15Km of the Zone of Influence:

Natura 2000 Site Code	Qualifying Interests and Conservation Objectives	Minimum Distance form Site boundary & Connectivity
Lough Ennell SAC (Site Code: 000685)and Lough Ennell SPA (Site Code 004044)	7230 Alkaline fens To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA: A059 Pochard (Aythya ferina) A061 Tufted Duck (Aythya fuligula) A125 Coot (Fulica atra)	3.27km from the site. The proposed site with within the same ricer basin subcatchment R. Brosna. There is no direct hydrological link from the site. Remote hydrological link exist via existing stormwater drainage infrastructure on adjacent roadways and via site storm drains. Potentially subject to surface water pollution impacts from

		construction and operational phases. No potential groundwater pollution effects or changes in groundwater levels.
<p>Lough Owel SPA (Site Code 00474)</p> <p>Lough Owel SAC (Site Code 000688)</p>	<p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:</p> <p>A056 Shoveler (<i>Anas clypeata</i>)</p> <p>A125 Coot (<i>Fulica atra</i>)</p> <p>Hard oligo-mesotrophic waters with benthic vegetation of <i>Chara</i> spp. [3140]</p> <p>Transition mires and quaking bogs [7140]</p> <p>Alkaline fens [7230]</p> <p><i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092]</p>	<p>2.33km from the site. This Natura site is within the Lower Shannon basin which is within the Inny River basin. There is no potential for pollution or surface water hydro morphological effects. There is no potential groundwater pollution effects or changes in groundwater levels.</p> <p>Mullingar water supply is abstracted from Lough Owel.</p>
<p>Lough Iron SPA (Site Code 004046)</p>	<p>Whooper Swan (<i>Cygnus cygnus</i>) [A038]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Coot (<i>Fulica atra</i>) [A125]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395]</p> <p>Wetland and Waterbirds [A999]</p>	<p>There is 8.47ha between the sites. The proposed development is located in a separate river basin. There is no significant risk to the groundwater due the separating distance between the sites.</p>

Lough Derravarragh SPA (Site Code : 004043)	Whooper Swan (Cygnus cygnus) [A038] Pochard (Aythya ferina) [A059] Tufted Duck (Aythya fuligula) [A061] Coot (Fulica atra) [A125] Wetland and Waterbirds [A999]	9.7km from the proposed site. The proposed development is located in a separate river basin. There is no significant risk to the groundwater due to the separating distance between the sites. (Screened out)
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The applicants NIS was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within the possible zone of influence as outlined above. Lough Iron SPA and Lough Derravarragh SPA are screened out due to distance and their location in a different river basin to the proposed development.

8.1 Natura 2000 sites within the potential zone of influence

8.1.1 Lough Owel SAC and Lough Owel SPA : are located within a different water catchment. These sites are not potentially subject to pollution or sedimentation impacts from construction or operational phases of the proposed development. The Mullingar water supply is taken from Lough Owel. Any significant reduction in water levels could have a negative impact on the conservation condition of the wetlands habitat and/or directly negatively effect the conservation condition of the waterbirds that use it. The Westmeath County Development Plan and the Mullingar LAP has policies and safeguards regarding the abstraction levels from Lough Owel. These were taken into consideration in the preparation of both plans. There are development management strategies and conclusions in both Appropriate Assessment Screening reports associated with the relevant developments plans, and significant negative impacts on Lough Owel SAC and Lough Owel SPA as a result of water abstraction will be avoided through the planning consent process. Therefore no further assessment on the potential impacts on Lough Owel are deemed necessary, and this Natura site can be screened out.

8.1.2 Lough Ennell SAC and Lough Ennell SPA : Due to the remote hydrological connectivity of the proposed site to Lough Ennell it is considered there may be

potential for negative effects on the water quality of Lough Ennell. There is a small chance there may be pollutants or silt laden waters from the construction site via a local stormwater drain to the Abbeylands Stream a tributary of the River Brosna. Water quality monitoring results for the River Brosna indicates poor water quality for the River Brosna both upstream and downstream of Mullingar. Mitigation measures as per Section 10 of the Natura Impact Statement, are required to avoid potential negative effects on water quality arising from the construction phase of this development only.

There are mitigation measures proposed relating to the :

Oil and Fuel Storage

Emergency response procedures regarding spillage

Excavation recommendations

Dust Management

The site-specific Construction and Environment Management Plan prepared by Tobin Engineers contains detailed mitigation measures to avoid any pollution or sediment transfer to the River Brosna. In light of the remote indirect hydrological linkage to Lough Ennell SPA and Lough Ennell SAC, it is considered along with the implementation of the mitigation measures prescribed in Section 10 of the NIS and the CEMP, there will be no significant risk of pollution or sedimentation of the River Brosna associated with the proposed development.

There are no watercourses or wetland habitats on or adjacent to the site. Lough Ennell SPA is situated a remote distance of 3.6km from the proposed development site. At this distance there is no potential for construction related noise disturbance impacts to the SCI bird species.

It is concluded that significant negative effects on the conservation objectives of the habitats and species of Lough Ennell SAC and Lough Ennell SPA as a result of the construction phase impacts of this project are not likely. Therefore these Natura 2000 sites can be screened out.

8.1.3 Potential for In Combination Effects

Planning permission was permitted for two blocks of apartments on a contiguous site which include 18No. apartments. The site area is small with no hydrological connection to the proposed site. In combination effects with another construction

project is deemed extremely unlikely. There is considerable excess capacity at the Mullingar sewage treatment plan according to the Mullingar Local Area Plan 2014-2020. In light of these factors there will be no significant impact on conservation objectives of Lough Ennell SAC anticipated as a result of cumulative increases in treated water discharges.

8.2 Conclusion

In conclusion, with the implementation of mitigation measures outlined in Section 10 of the Natura Impact Statement and implementation of the Construction Environmental Management Plan, both submitted with the planning application, there will be no significant effects arising from the proposed development are considered likely to occur in relation to the Lough Ennell SAC or Lough Ennell SPA or any other Natura 2000 site.

9.0 Recommendation

I recommend the Board grant planning permission for the scheme. The proposed 98No. housing units would be acceptable in terms of design and layout, and planning policy.

10.0 Reasons and Considerations

Having regard to the following:

- (a) The policies and objectives set out in the National Planning Framework,
- (b) The policies and objectives set out in the Westmeath County Development Plan 2021-2027
- (c) The policies and objectives set out in the Mullingar Local Area Plan 2014-2020
- (d) The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009,
- (e) The Design Manual for Urban Roads and Streets (DMURS) 2023 as amended,

- (f) The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009.,
- (g) The nature, scale and design of the proposed development,
- (h) The availability in the area of a range of social, community and transport infrastructure,
- (i) The pattern of existing and permitted development in the area,
- (j) The planning history in the area,
- (k) The submissions and observations received,

it is considered, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this urban location close to the town centre, would be acceptable in terms of pedestrian and traffic safety, and would not seriously injure the visual and residential amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's Report in respect of the identification of European sites that could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' conservation objectives.

The Board is satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any European sites, in view of the site's conservation objectives, other than the following, for which Appropriate Assessment is required:

- Lough Ennell SAC (Site Code: 000685)
- Lough Ennell SPA (Site Code 004044)

Appropriate Assessment

The Board considered the Natura Impact Statement submitted with the planning application and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development on European Sites: Lough Ennell SAC (Site Code: 000685) and Lough Ennell SPA (Site Code 004044) . The Board considered the information before it was adequate to carry out the Appropriate Assessment.

In completing the Appropriate Assessment, the Board considered in particular, the following:

- (a) The likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) The mitigation measures which were included as part of the current proposal and
- (c) The conservation objectives for the European Sites.

In completing the Appropriate Assessment, the Board and accepted and adopted the Appropriate Assessment carried out in the inspector's report in respect of the potential effects of the proposed development on the Lough Ennell SAC (Site Code: 000685) and Lough Ennell SPA (Site Code 004044) having regard to the sites conservation objectives.

In the overall conclusion, the Board was satisfied that the proposed development subject to identifiable mitigation measures, by itself or in combination with other plans or projects, would not adversely affect the integrity of the sites listed above, or any other European Site, in view of the sites conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.

11.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information submitted on 13 th of July 2022, and further clarification of
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	<p>further information received on the 3rd of December 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Planning permission is granted for 98No. dwellings units only, a single creche and pumping station as per the site layout drawing and house types submitted as further information on 13th of July 2021.</p> <p>Reason: In the interests of clarity</p>
3.	<p>The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with the planning authority prior to commencement of any development.</p> <p>Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.</p>
4.	<p>The mitigation measures detailed in Section 10 of the Natural Impact Statement shall be implemented in full.</p> <p>Reason: In the interest of clarity and to ensure the protection of the European sites.</p>
5.	<p>The areas of public open space shown on the lodged plans (13th of July 2021) shall be reserved for such use and shall be contoured, soiled, seeded, and landscaped in accordance with the landscaping proposals received by the planning authority and the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.</p> <p>Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>

6.	<p>(a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company</p> <p>(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
7.	<p>A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-</p> <p>(a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;</p> <p>(b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;</p> <p>(c) details of proposed street furniture, including bollards, lighting fixtures and seating;</p> <p>(d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.</p> <p>The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.</p> <p>Reason: In the interest of visual amenity.</p>
8.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces and the public park, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such</p>

	<p>lighting shall be provided prior to the making available for occupation of any house.</p> <p>Reason: In the interest of amenity and public safety.</p>
9.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
10.	<p>(a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p>(b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(c) The internal road network to serve the proposed development (including junctions, parking areas, footpaths and kerbs) shall comply with the detailed standards of the planning authority for such road works.</p> <p>(d) The materials used, including tactile paving, in any roads/footpaths provided by the applicant shall comply with the detailed standards of the planning authority for such road works.</p> <p>Reason: In the interests of traffic, cyclist and pedestrian safety.</p>
11.	<p>The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety</p>
12.	<p>A minimum of 10% of all car parking spaces shall be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces to facilitate the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in</p>

	<p>accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.</p> <p>Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles</p>
13.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.</p> <p>Reason: In the interests of visual and residential amenity.</p>
14.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
15.	<p>The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, submitted with the planning application.</p> <p>Reason: In the interest of public safety and residential amenity.</p>
16.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority</p> <p>Reason: In order to safeguard the [residential] amenities of property in the vicinity.</p>

17.	<p>Proposals for an estate/street name, house numbering scheme, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>
18.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
19.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory</p>

	<p>completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
20.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions*** of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

Caryn Coogan
Planning Inspector

27th of January 2023