



An
Bord
Pleanála

Inspector's Report

ABP-313091-22

Development	Construction of 83 residential units, 1 pumping station and all associated ancillary development. NIS has been submitted to the planning authority
Location	Rathgowan, Mullingar, Co Westmeath
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	21139
Applicant(s)	Glenveagh Homes Ltd
Type of Application	Permission.
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Denis Leavy
Observer(s)	Russell Mac Nabb
Date of Site Inspection	27 th of July 2022.
Inspector	Caryn Coogan

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 2 of the overall scheme (83No. dwellings of a total number of 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 residential 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 the 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 north-eastern extremity of the site.
- 1.4. To the east of the site is Phase 1 of the proposed development which is subject to a separate planning application/ appeal. The main spine of the internal service road serving both Phases in fact, divides both Phases 1 and 2.
- 1.5. The C-link Road (R394) forms the western, site boundary. It is a post and rail fence along the entire C-link site boundary. There are agricultural lands on the opposite side of the C-link road to the subject site.
- 1.6. To the south of the site, is Ashe Road, a notable physical feature of Phase 2. The Ashe Road roadside boundary is partially post and rail fencing, partially mature hedgerow. There is a large utility building jutting into the subject site located along Ashe Road which includes an ESB substation and a telecommunications mast. There are pylons extending from the ESB substation through the subject site. Ashe Road is the main thoroughfare into the town centres from the subject site, and it supports a multitude of residential developments and the Gaelscoil.
- 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 footpath along the carriageway of the C-link Road and a road cycle way along L1000 to the south of the site.
- 1.8. To the south of the Ashe Road (L1000) there is housing estates. It is a suburban residential area. At the southeast extremity of the site there are two small apartment

blocks currently under construction (granted planning permission under reference 19/6121). 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 2** of one large scheme which is the subject of two planning applications, both of which are currently under appeal with the Board. Phase 2 comprises of 83No. residential units, (1No. childcare facility, 1No. pumping station both of which are located in Phase 1) and all associated ancillary works.

2.2. The 83No. residential units consist of:-

- 8No. two-bedroom units;
- 36No. three-bedroom units
- 3No. four-bedroom units
- 12No. 1 bedroom maisonette units
- 12No. two-bedroom duplex units
- 12No. three-bedroom duplex units.

The elevation design and finish of the houses are plain.

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

The proposed childcare facility is located to the northeast in Phase 1. It is a detached single storey building with 29No. childcare spaces and associated parking.

There is a detached building at the northern extremity of Phase 1 which accommodates a pumping station.

Other features of the proposed scheme include:

- A pedestrian/ cycle link from Ashe Road with a cycle lane/ footpath around the entire roadside perimeter of the site.
 - 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 1** is on the northern portion of the landholding. Phase 1 is currently under appeal, reference *ABP 312841-22* –the construction of 98 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. The following are a number of reports and supplementary documentation were submitted with the planning application, and there were additional reports:
- 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.
 - Ecological Impact Assessment,
 - A Flood Risk Assessment,
 - Preliminary Construction Management Plan,
 - A Construction and Demolition Waste and By-Product Management Plan,
 - Operational Waste Management Plan
 - Environmental Impact Assessment Screening Report.
 - Compliance with Part V report
 - Planning and Design Statement
 - Urban Design Framework Plan
 - Landscape Design Plan

- School Demand Report

2.6. **Further Information:** On the 14th of May 2021 Westmeath Co. Co. sought further information on a number of outstanding issues. A response was received on 3rd of December 2021, with a number of revised drawings relating to the footpath alongside the C Link Road and Ashe Road, 6No. open space pockets totalling 6963sq.m. (with an overlap with Phase 1).

The Further Information included revised drawings for **3No. additional dwellings** (No.s 184, 185 and 186) backing onto the ESB substation located along Ashe Road and the placing underground of the overhead wires and the removal of the pylon on the subject site.

3.0 Planning Authority Decision

Westmeath Co. Co. granted planning permission for the proposed development on the 25th of February 2022, subject to 25No. standard planning conditions relating to residential developments.

Condition No 2 stipulates the occupants must sign a Section 47 agreement to occupy the dwellings

Condition No. 5 states Dwellings 184, 185 and 186 on Drawing P19-235K-02-XX-DR-A-31015 be omitted from the scheme

3.1. Planning Authority Reports

3.1.1 *Planning Report 1 dated 13th of May 2021 :*

- Mullingar is a key town
- The application is accompanied by an Urban Design Framework and it complies with the zing objective. It complies with the County's core strategy
- Density and Mix: The are is predominantly two storey semi-detached units. The national guidelines state that densities under 30 dwellings per hectare should be avoided on sites like this. The proposed development will provide a net density of 36.4 dwellings per hectare, note the gross density is 30units per hectare. This is acceptable and there is an appropriate mix of dwellings.

- Visual Impact: The proposal is acceptable given the topography of the site, the existing built environment and overall design.
- There is a report submitted on school availability and number of places generated by the proposal.
- A creche is proposed.
- Enviroguide prepared and Ecological Impact Assessment. A Bat Survey report was prepared. There was a Cultural Heritage Assessment carried out.
- Access off C-Link Road is acceptable. 112 parking spaces are proposed. Stage 1 Road Safety Audit prepared.
- According to the Flood Risk Assessment carried out, there is no risk from flooding anticipated.
- Construction Environmental Management Plan
- EIA not required.
- NIS submitted Lough Owel SPA and SAC can be screened out.
- Residential Contribution is €1362 per dwelling unit
- Further Information is recommended addressing dual aspect designs, overlooking, minimum floor areas, street elevations, bike storage, EV charging points, Daylight/ sunlight.

3.1.2 Planning Reports 2 & 3

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

3.2 *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.

Sight distance has no issues. Connection to public mains, and connection to public sewer via pumping station.

OPW Preliminary Flood Risk Assessment (PFRA) Maps indicate the site is at risk of very minor pluvial flooding.

Environment Section : No objection

3.3 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.

3.4 Third Party Observations

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

- The development is piecemeal
- Open Space design is poor
- The Design Statement does not address the 12No. criteria as out in the Urban Design Manual
- The proposed scheme is low density
- The demand for schools is not adequately addressed
- 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.
- There is flooding associated with the site.

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 21/97 ABP Ref 312841

Glenveagh Homes Ltd (applicant to this current appeal) has applied for 98No. 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 Southeast, Planning Reference 19/6121 Green Door Designs

Planning permission granted for 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

5.1.1. 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.

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

5.2.1. 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.

5.2.2 **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.

5.3 **Local Planning Policy**

5.3.1 **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

5.3.2 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.

5.4 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.

5.5 EIA Screening

Environmental Impact Assessment (EIA) requirements derive from EU Directives. Council Directive 2014/52/EU and is transposed 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 Ashefeild 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

Denis Leavy of Proudstown Road Navan, has taken a third-party appeal against the decision to grant planning permission for the proposed development. A summary of the grounds of appeal is bulleted below:

- **Piecemeal Development:** The proposed development represents an inappropriate piecemeal development because the applicant has another planning application within the same site, Planning Ref. 2197

(PI25M.312841). This creates unnecessary and additional administration costs for all parties.

- There is a possibility that only 1 of the 2 proposals could be implemented. They are not linked by condition. Both applications include for an entrance, a pumping station, creche and internal roads. It is not clear why the applicant went for two separate planning applications other than to avoid the Strategic Housing application route. If the development is to be constructed in Two Phases the applicant should have applied for Phase 1 only first before applying for Phase 2.
- **Density:** The density of the proposed development and density of combined development with Phase 1 is low and does comply with development plan or Sustainable Residential Development in Urban Areas (2009). The density of proposed development is only 13.9 units per hectares or 30.4 units per hectare. The overall density is materially less than 35 units per hectare promoted for this site and would result in the unsustainable and inefficient use of zoned serviced land in a suburban location.
- **Schools:** The proposed development and the concurrent planning application for Phase 1 will create a demand for primary school places, which the applicant's submission does not adequately address. The school demand report calculates an additional demand for 62No. places from 183No. dwellings and concludes there is sufficient capacity within the existing schools in Mullingar. However, the report fails to consider the additional demand arising from other residential developments within Mullingar and it relies upon the 70 spaces at the school that is most remote from the site, Carraghmore National School. The schools closest to the site are at capacity. The Mullingar Town Development Plan 2014-2020 (as extended) includes policies SR12 – To require and co-operate in the provision of community facilities in tandem with residential development including in particular local services, schools, creche and other education and childcare facilities.
P-ED1 – To integrate the provision of school facilities with new residential development in accordance with the Department of Environment, Heritage and Local Government Guidelines on Sustainable Development in Urban Areas (2009).

The school report provides a superficial assessment. The proposal does not comply with the policies quoted.

- The architects design statement does not address the 12No. criteria as set out in the Urban Design Manual: The best practice that accompanies the Sustainable Urban Housing Guidelines.
- **Open Space:** There is a poor distribution of open space areas, with most of the open space areas disproportionately located in Phase 1, and these are located either side of the estate access and will have no amenity function or recreational value. The proposal will create a substandard living environment.
- There are a number of units fall short of the 22metre separation distance between directly opposing windows.
- Phase 2 is unusual and does not reflect the character of Mullingar, it is more akin to Dublin residential layouts.
- A substantial proportion of the open space area is under the overhead wiring. Should children be playing under the overhead wires?
- People living in Mullingar may not be able to buy the houses. They could be bulk sold.
- There is insufficient information regarding the Construction and Demolition Waste to adequately assess the potential impact from the construction phase of the proposed development.
- The application fails to address the embodied carbon/ carbon output from the construction and operational phases of the proposed development. The Government's Climate Action Plan 2021 provides a detailed plan decisive action to achieve 51% reduction in the overall greenhouse gas emissions by 2030.

6.2 Applicant Response

6.2.1 The applicant states there is a strong case to have the appeal dismissed under Section 138(1)(a) and (b) of the Planning The same appellant has made 8No. similar submissions/ observations to various planning authorities and a number of appeals against other Glenveagh developments which the appellant has no obvious connection. The appeal is without substance and foundation. The appeal will only delay the development approved by the planning authority. In Finnegan Vs An Bord

Pleanala (1979) it was said the purpose of the Act is to prevent appeals without reality or substance, and the applicant believes Mr. Leavy's appeal is lacking both reality or substance and should be dismissed by the Board.

The following is a list of submissions made by the appellant against developments which are remote from the appellants place of residence:

- (i) ABP Ref 310884, and Ref. 21/2161 26No. Dwellings at Rathmullen Road, Drogheda, Co. Meath.
- (ii) Ref: 21/77 98NO. dwellings at Rathgowan, Mullingar.
- (iii) Ref 21/2161 boundary alterations and change of house type at Trim, Co. Meath.
- (iv) Ref F21A/0113 76No. dwellings Donabate, Co. Dublin
- (v) Ref: 21/1028 Extension to existing Heinz Customs Food building at Dundalk, Co. Louth
- (vi) Ref. 21/370 mixed development Maynooth, Co. Kildare

All the submissions on the above planning applications within various counties raise similar issues and are remote from the appellant's home. It makes sense why the appellant objected to both Phases of the development at Rathgowan, but he only appealed Phase 2. This makes no sense to appeal to one part of the entire proposal. In this context the appeal is considered to be vexatious.

6.2.2 The planning application was the subject of extensive pre-planning consultations, and the planning application was accompanied by detailed plans/ materials. The issues raised on appeal are almost identical to those raised by Mr. Leavy at the planning application stage and were addressed by the planning authority and the applicant.

6.2.3 In relation to density the subject site is a greenfield site situated on the edge of Mullingar town. The Guidelines on Sustainable Residential Development for Urban areas emphasise the importance of encouraging higher densities in outer suburban/ greenfield sites on the edge of towns, with net densities in the range of 35-50 dwellings per hectare. It is also a policy of Westmeath to promote higher densities under objective CPO 16.24. The net developable area of Phase 1 and Phase 2 applications is 4.97ha with a net density of 36.4 units per hectare. This has been

achieved without compromising the residential density of the are or adjoining properties. The planning report also stated the gross density is above 30 units per hectare baseline.

The appellant has also raised concerns about the poor distribution of open space. The 6,963sq.m. is 11% of the total site area, which equates to 15% of the net developable area of the site. The open space areas are throughout the site and consist of dedicated play areas, ballcourts and informal grassed areas. The open space areas benefit from passive surveillance.

The appellant has not examined the submitted drawings accurately. There are no units with opposing first floor windows that have a separation distance less than 22metres. The units with less than 22metres with opposing windows are windows of storage and/or bathrooms.

The appellant has stated the documents contain insufficient material. There are comprehensive drawings and reports lodged with the planning application. There is a full set of architectural drawings, engineering drawings and landscape drawings submitted and the further information addressed concerns of the planning authority comprehensively.

Section 4.3 of the Planning and Design Statement addresses all 12 criteria of the Urban Design Manual, it provides for connections, inclusivity, variety, efficiency, distinctiveness and adaptability.

The Construction and Demolition Plan includes all the required details and was assessed by the Environment Section of Westmeath Co. Co.

The submitted School Demand Report comprehensively assessed the demand for primary and post primary school places likely to be generated by the development, and concluded there was sufficient capacity in the existing schools to cater for the demand.

6.3 Planning Authority Response

There was no response received.

6.4 Observations

Russell McNabb made an observation which is similar to the third-party appeal he made on ABP-312841. A summary 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 appellant's 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.

6.5 **Applicant's Response to Observation**

The Russell MacNabb observation 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 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. Mr. McNabb's landholding is within this 19.75Ha designation. 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, 13/05/2021. 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. The local authority may intend on Compulsory Purchasing Mr McNabbs landholding and this could be pursued by the land owner.

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
- 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 and along Ashe Road to the south of the site. There are schools in 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 observation 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. I note the Urban Design Framework prepared by Reddy Architecture on behalf of the applicant which was submitted by the applicant, and it referenced and included Mr. McNabb's landholding.

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 of Mullingar Town Development Plan 2014-2020. 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 13th of May 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 observation are unreasonable. A refusal of the proposed development on these grounds is unwarranted and unjustifiable as there is no statutory obligation to enforce the Urban Design Framework designation.

7.4 Layout, Scale and Design

The Design Statement prepared in March 2021 by Reddy Architects and is noted by this inspector. The site is accessed via a singular access route off an existing roundabout on the C-link Road. Phase 2 is positioned to the west and south of the overall site. The Ashe Road frontage includes two blocks of duplex units, with detached and semi-detached units addressing the C-link Road. There are pockets of open space areas dispersed throughout the layout, with an equipped play area at the entrance to Phase 2, and a cycle/ pathway along the C-link boundary of the site. There is a notable pedestrian access onto Ashe Road along the southern site boundary. The proposed dwellings are laid out in 4 separate blocks addressing all aspects of the internal roads and open space areas. 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. There are 112No. carparking spaces to cater for 83No. dwellings with 18No. cycle parking spaces and 48 No. residential cycle parking spaces. There are 13No. house types which are designed with energy efficiency as a priority including maisonettes and duplex units.

(i) Open Space

The open space and shared areas are situated in visible areas with ample passive surveillance. The third-party appellant considers there is poor distribution of open space areas throughout Phase 2. The quantum of public open space area ensures the development plan standards are met because there is 11% of the net site area devoted to public open space. These have the benefit of passive surveillance from the proposed dwellings and provide a variety of play areas and public open space sizes throughout the layout. There is a comprehensive landscaping scheme to integrate the housing, play areas and open space areas. I do not agree with the appellant's views on the open space areas. The open space pockets are linked and dissected by pathways. The landscape proposals aim to create a series of spaces that are connected through the use of hard and soft landscaping.

(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 Design Statement accompanying the planning application states the green spaces are a natural link throughout the development and have been integrated into the housing blocks to create an overall design that is attractive and enhances the living space throughout the scheme.

(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.

(iv) Separation Distance

There is 22metre separation distance between opposing first floor windows throughout the scheme. The units referred to in the appellant's submission may be the bathrooms which will include opaque glass. The overall individual plots respect the amenities of each dwelling and are typical of suburban residential layouts.

(v) Overhead lines

As part of the further information submission received on the 3rd of December 2021, the high voltage wires and a pylon were to be removed from the site. These connect onto the ESB station jutting into the site along the southern site boundary, Ashe Road. There is a large telecommunications structure on the utilities site at this location too. The revised scheme included an additional three dwellings backing onto the utilities site (House Type C7), Houses Numbers 184, 185 and 186. Condition No. 5 of the planning authority's decision omitted these three dwellings and that the footprint of the 3No. additional units was to be assimilated into the overall development subject to plans being agreed in advance of the commencement of the development.

I refer to the Planning Report on file which states the further information did not include house plans or elevation drawings for the 3No. additional dwellings. House type B1 is the middle house on the small terrace. A C7 house type is either side of the B1 House Type. The revised site layout drawings illustrate the individual site boundary's, the building footprint, front and rear garden areas, carparking spaces, and indicative ground floor plans for the C7 House Type. I consider given the amount of detail on the submitted drawings and the enhancement to the overall visual amenities of the proposed streetscape in the vicinity of the utilities building site, I consider omitting these three dwellings to be unreasonable given the rationale in the Planning Report and the level of detail in the submitted documentation. The outstanding drawings can be submitted to the planning authority for agreement within three months of any decision to grant permission for the proposed development.

7.7 Pedestrian Links/ Cycleways

At the southern 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.

The link is 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.

The link will provide a direct pedestrian route to the C-link road towards the general hospital and nearby schools. 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 proposed 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. These reports were referred to and assessed by the relevant engineering and environment departments within the planning authority, and the measures proposed were deemed to be acceptable.

- The content of the School Report on file area noted and the concerns expressed by the appellant. It is considered the schools in the area have the capacity to cater for the number of places the overall scheme will generate. This is based on the applicant's assessment of the schools in the locality. The appellant has not substantiated any of his claims regarding lack of capacity at the local schools to cater for the proposed development.

Finally, I note the applicant's concern about the third-party serial submissions/ objections/ appeals relating to planning applications in other counties and areas not connected to his Co. Meath location. I consider it unusual that Mr. Leavy appealed Phase 2 and not Phase 1 of the overall scheme in Rathgowan, Mullingar. In this context, I consider his motivation in appealing Phase 2 of this overall development to be questionable. The applicant has requested the appeal be dismissed under Section 138 (a) (ii) of the Planning and Development Act 2000.

The following is a list of submissions made by the appellant against developments which are remote from the appellants place of residence:

- (i) ABP Ref 310884, and Ref. 21/2161 26No. Dwellings at Rathmullen Road, Drogheda, Co. Meath.
- (ii) Ref: 21/77 98NO. dwellings at Rathgowan, Mullingar.
- (iii) Ref 21/2161 boundary alterations and change of house type at Trim, Co. Meath.
- (iv) Ref F21A/0113 76No. dwellings Donabate, Co. Dublin
- (v) Ref: 21/1028 Extension to existing Heinz Customs Food building at Dundalk, Co. Louth
- (vi) Ref. 21/370 mixed development Maynooth, Co. Kildare

There are other appeals with the Board which the appellant was involved in, and these are located within Co. Meath where he resides. I mention these as reference only but worth noting as the same applicant in both cases, Glenveagh Homes Ltd is the applicant of this current case.

(a) ABP Ref 314744: Lands north of Clonmagaddan road, Clonmagaddan, Navan, Co. Meath. (www.cluainadainIrd.ie) (22924) 138 no. residential units (100 no. houses and 38 no. apartments) and associated site works.

(b) ABP Ref 310884: Lands to the North of the Windtown / Proudstown link road, Clonmagadden, Navan, Co. Meath (21304) Amendments to residential development permitted under NA/181326. Replace 4 storey apartment block with 23 dwellings and all associated works.

In my opinion, the Board has a current appeal relating to Phase 1 of the overall development at Rathgowan, ABP 312841, which was appealed by Mr. Russell McNabb, an Observer on this current appeal relating to Phase 2. Under these circumstance, in the interests of fairness, I believe the Board should not dismiss the appeal.

8.0 Appropriate Assessment

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

The proposed development is for 83No. 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
<p>Lough Ennell SAC (Site Code: 000685)and Lough Ennell SPA (Site Code 004044)</p>	<p>7230 Alkaline fens</p> <p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:</p> <p>A059 Pochard (<i>Aythya ferina</i>)</p> <p>A061 Tufted Duck (<i>Aythya fuligula</i>)</p> <p>A125 Coot (<i>Fulica atra</i>)</p>	<p>3.27km from the site.</p> <p>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.</p> <p>Potentially subject to surface water pollution impacts from construction and operational phases. No potential groundwater pollution effects or changes in groundwater levels.</p>
<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>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>

	Austropotamobius pallipes (White-clawed Crayfish) [1092]	
Lough Iron SPA (Site Code 004046)	Whooper Swan (Cygnus cygnus) [A038] Wigeon (Anas penelope) [A050] Teal (Anas crecca) [A052] Shoveler (Anas clypeata) [A056] Coot (Fulica atra) [A125] Golden Plover (Pluvialis apricaria) [A140] Greenland White-fronted Goose (Anser albifrons flavirostris) [A395] Wetland and Waterbirds [A999]	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 to the separating distance between the sites.
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)

The applicant's 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 plant 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 86 No. 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 a signifiant 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.	<p>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 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>(i) Planning permission is granted for 86No. dwellings units only, as per the site layout drawing and house types submitted as further information on 3rd of December 2021.</p> <p>(ii) Within three months of this decision, the applicant shall submit to an agree with the planning authority in writing elevation and floor plans for House Type C7.</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 (3rd of December 2021) shall be reserved for such use and shall be contoured,</p>

	<p>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 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>

	Reason: In the interest of amenity and of traffic and pedestrian safety
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 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.</p>

	<p>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 the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such</p>

	<p>agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
20.	<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 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>
21.	<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</p>

	<p>matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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Caryn Coogan
Planning Inspector

8th February 2023