



An
Bord
Pleanála

Inspector's Report

ABP-313217-22

Development	Construction of 58 residential units, alterations and upgrade to access road and associated site development works. Application accompanied by an NIS.
Location	The Drumbiggle, Ennis, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	21599
Applicants	Leadlane Drumbiggle Ltd.
Type of Application	Permission
Planning Authority Decision	Permission
Type of Appeal	Third Party
Appellants	1) Michael O'Flanagan 2) Brian McMahon 3) Sean Ben Connolly 4) John Hodnett 5) Kevin Tirnan
Observer(s)	1) Kate McAney
Date of Site Inspection	30 th December 2022.
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1.** This appeal site of 2.4 hectares relates to the southern part of a woodland/scrubland area which is part of a strategic residential land reserve in a suburban area approx. 650m to the southwest of Ennis town. The site comprises a linear stretch of ground overlapping an access road and a rectangular undeveloped scrubland site of c. 1.8 hectares facing onto Pairc na Coille along which there are houses as part of a retirement village/nursing home complex facing the subject site. The site accordingly has a short frontage along Showgrounds Road (a continuation of Drumbiggie Road) and extensive frontage along and incorporating an access road to the east which also serves the agricultural showgrounds and Ennis Rugby Club to the east and Pairc na Coille housing further south. A number of detached houses along Showgrounds Road back onto adjoining lands to the north of the site and two separate housing developments - each independently accessed off the Cahercalla Road to the south also back onto the site; Willows Grove which has a 'hammerhead' road area and open space adjoining the proposed housing site at its northern tip and Cahercalla Drive which has five detached houses backing onto the site. The Woodlands housing development is to the southeast and this is accessed off Kilrush Road.
- 1.2.** The site is generally cleared scrubland and adjoined by woodland and rises generally from south to the north. It is fenced off from the surrounding road frontages. There is a culvert traversing the site which extends from the east frontage of the nursing homes site to the boundary with Willsgrove where it appears to continue. The culvert stream is named the Cloghleagh Stream/River in the EclA and Cahercalla Stream in the Planning Authority documents. I refer to it as the culverted stream in my assessment. It is shown as partly culverted but as an open drain on the subject site between Cahircalla Lough and River Fergus in older O.S. maps and latterly as being culverted through the site. An open section appears in front of the nursing home, the grounds of which are outside the subject site, but only a few metres is within the site beside the rugby club entrance.

2.0 Proposed Development

- 2.1.** The application as revised is for the construction of 56 residential units (revised from 58 in Further Information) and comprises:

- 1 detached house (4 bed)
- 8 semi-detached houses (4 bed)
- 16 semi-detached houses 3 bed
- 9 terraced houses 3 bed
- 11 duplex houses 3 bed – height of 11.8m
- 11 duplex apartment 2 bed

The houses are 2 storey and of various layouts and sizes ranging from 115sqm to 132 sqm. The duplexes are 3 storey with ground floor apartments of 83-85.2sq.m and 2 storey units over of 124.7sqm. The duplexes are arranged in a continuous row of two terraces of 5 and 6 sets.

2.2. Site layout incorporates:

- Open space at 21% (increased in FI)
- 1.8m wide footpaths and 5m wide roads and 6m spine entry route
- Parking: Total of 120 spaces provides including 3 electric charging spaces.
Ratio of 2 spaces per house = 90 and 1 space per apartment =11
- Alteration to existing access road to upgrade access and footpath.
- Shared communal space and semi-private open space, car and bike parking, bin store, site landscaping /boundary treatment and public lighting.
- Drainage services
- Associated site development works.
- New connections to water, wastewater proposed. surface water to discharge to public sewer/drain.

2.3. The application is accompanied by:

- NIS and as revised in FI
- AA screening as revised in FI check if circulated.
- Traffic and transport report
- Civil works design
- Planning cover report
- Design statement
- Part v proposal
- EclA as revised in FI

- Arboricultural impact assessment: It is proposed to retain a row of ash trees along the western boundary while removing scrub. 6 mature trees within the site are surveyed and most are to be removed.
- Outdoor lighting report
- FI report describes the revisions and addresses the further information point by point.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Clare County Council by order dated 3rd August 2022 requested further information and by order dated 11th March 2022 decided to **GRANT** permission subject to 27 conditions such as:

- Condition 2: s.47 agreement
- Conditions 3 and 4 : s. 48 contribution and security
- Condition 5: compliance with NIS
- Condition 6: revised drawings and detail re boundary wall layout, protection of tree roots, finishes of boundary wall and road surfaces, bins and screening of same.
- Condition 7 revised details for agreement re parking, ducting etc
- Condition 8 obscure bathroom glazing
- Conditions 9 and 16 CEMP and construction hours
- Condition 10 surface water and foul sewage compliance and revised detail for s.w. layout.
- Condition 11 supervision of archaeologist.
- Conditions 12, 13, 14, 17, 18, 19 and 20, 22 standard of development re naming/signage, open space, cabling, infrastructure protection, as constructed drawings and water.
- Condition 21 restricts guest accommodation.
- Condition 23 restricts spread of invasive species.
- Condition 24 requires landscaping plans and specifications.
- Condition 25 finished floor level to be as per drawings.

- Condition 26 requires lighting details.
- Condition 27 restricts noise levels within the proposed dwellings.

3.2. Planning Authority Reports

3.2.1. Planning Report 3rd August 2021: Further information was requested in respect of:

- Bats due to concerns about possible loss and impact on network of hedgerows and commuting/foraging habitat and inconsistencies of mitigation and landscaping plan. The applicant was requested to review the NIS in respect of loss of trees and to submitted more detailed tree surveys and nature of supplementary planting and demonstration of compliance with CDP objective to ensure no net loss of potential LHB feeding habitats, treelines, hedgerow within 3km of known roosts.
- Adherence to Sustainable Residential Development in Urban Areas Guidelines for planning authority – and the accompanying Urban Design Manual, A Best Practice Guide 2009 in respect of layout of open space, playgrounds, as well as layout issues regarding bin storage and ground/floor levels
- integration of footpaths/cycle paths with Wills Grove (e.g. advising a 4m wide link) including legal interest details,
- visual enhancement through
 - improved integration of car parking layout – e.g. low maintenance landscaping works and improved connectivity with the units and allocation details.
 - Revised boundary details including natural stone or brick finishes, changes/details re Wall type c and D and
 - omission of timber post and rail (wall type E) due to security,
 - Improved design and finishes of the northern elevations of apartments numbers 37 and 58.
- Traffic safety and free flow and details re:
 - Electric charging, bicycle parking, public lighting and protection of bats, landscaping heights etc.
 - Provision of raised table at road junction near unit 58.
 - Inclusion of cycle lanes e.g. in northeast corner
 - Turning bays to required standard.

- Submission of surface water drainage details - location of dual culvert and wayleave for maintenance, location of proposed/existing attenuation, storm water attenuation particulars for this and future phase of overall site based on 100-year flood and 20% climate change allowance.
- Details and feasibility of public main and sewer connections
- Location of fire hydrants.

3.3. Revised notices sought on receipt of further information lodged 23rd December 2021.

3.3.1. The issues of 20 separate objections are listed and noted as are the provisions of the development (2017-2023) and notably the residential zoning of site. Issues noted regarding:

- Boundary treatment with Cahercalla Drive
- Pedestrian/cycle access with Wills Grove and potential nuisance
- Ecological impact on unspoilt natural habitat with range of flora and fauna species. Therefore it is contrary to Clare Biodiversity Action Plan and needs an EIS. Arboricultural report is cited in respect of acknowledged high impact which is contrary to the statement of no adverse impact on SACs
- Impact on Bats/QI of SAC and pNHAs
- Drainage and capacity issue for sewerage system
- Flooding
- Zoning queried.
- Access to planner and documents
- Impact on elderly residents of Pairc na Coille due to loss of woodland area

3.4. The assessment also considered the matter of splitting of the site with a reliance of the subject site on open space in the undeveloped lands outside the site. The proposal was considered acceptable having regard to housing mix and impact on amenities by reason of overlooking. The garden depths of 11m were deemed not to result in overlooking. Adequate separation for existing houses is provided.

3.4.1. The traffic capacity of the road network as set out in the submitted Traffic assessment report is accepted.

3.4.2. The volume of car parking at 127 spaces is acceptable subject to layout amendments.

3.5. Assessment of the further information

- 3.5.1. The 60-page planner's report sets out in detail each of the objections and the technical reports before considering the adequacy of each of the applicant's responses to the particular issues.
- 3.5.2. The submitted details, as revised, are considered to satisfactorily address the issues and some outstanding matters of detail are considered to be open to being sufficiently addressed by a condition of permission.

3.6. Technical Reports on further information

Chief Fire Officer : (6/1/22) no objection subject conditions relating water supplies, turning bays and fire safety.

Road Design Office: (29/7/21) FI required. Subsequent report 27/1/22 sets out design specifications regarding turning bay, parking layout, electric charging. In interest of promoting active travel,

- the footpath in initial application connecting to Wills Grove should be 4m wide to accommodate shared cycle and pedestrian uses
- extension of cycle lane along the existing estate road is recommended.

Ennis Municipal District Engineer(3/8/21)

Notes the use of infrastructure as part of previous development and requires works in relation to interceptors and suitably designed stormwater network/attenuation area together with maintenance details. The wayleave shown in drawing 111093-2017-P01 relates to public ground which will transfer to the Council as part of the taking in charge process.

In a report of 10/3/22 sets out storm water condition and cites the road design office report regarding connectivity and construction traffic routes and management.

Road Transportation

Refers to future connectivity measures to be set out in the proposed Clare County Area Based Transport Assessment and the Ennis Mobility Plan anticipated 'this year' (2022) In the context of the Southern Regional Assembly Authority Accessibility and Framework report 10 minute town and the emphasis on compact growth and sustainable transport and having regard to the location of the schools to the south of the proposed development it is appropriate permeability is considered for pedestrian and cyclists.

It is also stated that the road network and open space in Willsgrove are in the charge of the council.

It is also noted that the unavailable direct boundary between the open space in the proposed development and the existing open space in Willsgrove is confined and land acquisition will be required to provide an appropriate access which will require a separate planning process by the council.

Ecologists Report (cited by planner): Considering the existing well-lit housing development and road infrastructure around the site, the conclusion that the works will not have a significant effect on qualifying interests of designated sites is reasonable. Nor is it considered that the development will give rise to the discharge in vicinity of the site that would be harmful to Natura sites. Conditions recommended re mitigation measures in NIS and details of lighting and planting regime.

Estates team:12/7/21

Measures recommended for construction management, roads footpaths and services and general details for estates.

Housing Department: Part V agreed previously and in principle for development.

3.7. Prescribed Bodies

3.7.1. Department of Housing, Local Government and Heritage

DAU (built heritage):

Letter of 27/8/21: due to scale conditions recommended, such as monitoring in line with section 3.7 Framework and principles for the Protection of Archaeological Heritage 1999. The applicant is required to engage the services of a suitably qualified archaeologist to carry out licenced monitoring of all groundworks associated with the development.

Should archaeological material be found during the course of monitoring the archaeologist may have work on the site stopped pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the National Monuments Service with regard to the any necessary mitigating action e.g. preservation in situ and/or excavation. The applicant shall facilitate the archaeologist in any recording any material found.

The planning authority and the National Monuments Service shall be furnished with a report describing the results of the monitoring.

letter to ABP 16/11/22 - Possible subsurface archaeology due to size – the Board is requested to attach a condition verbatim in the event of permission.

DAU (natural heritage):

Letter 12/7/21 Clarification of tree retention and landscaping required having regard to bat foraging potential and CDP objective to ensure no net loss. The NIS fails to address this. Full details lighting required.

In a subsequent letter of 24/1/22 conditions recommended regarding implementation of mitigation measures. The department recommends in the event of permission that all mitigation measures outlined including retention of trees, linear features and appropriate lighting be included.

Letter to ABP of 14/11/22 - NIS considered deficient in terms of addressing loss of foraging area for Lesser Horseshoe bat species., full details of lighting required. requested further information.

3.7.2. **Irish Water:** 21/1/22 No objections subject to conditions.

3.8. Third Party Observations

3.8.1. There were many objections lodged by neighbouring residents and others. Issues relate mainly to connectivity of footpaths, impact on existing residential amenity, ecological impact and infrastructural issues.

4.0 Planning History

4.1. The planning authority report sets out a comprehensive list of decisions for the site and environs. Of note is the previous permission on site (PA ref 06-21010) as part of the larger site (as outlined in blue in the subject application) for a mixed-use development including 116 dwellings, 1 crèche, 4 offices and 2 retail units.

5.0 Policy Context

5.1. Clare County Development Plan 2023-2029 (effective 20th April 2023)

- 5.1.1. The site is zoned – Strategic Residential Reserve (SR8) in Volume 3a - Ennis Municipal District. As per volume 1, these areas are in serviced settlements to facilitate longer term growth needs across the county and are most appropriate for long term sequential expansion. The site is within the Cloughleigh/Drumbiggie Neighbourhood. (section 2.9 of Vol.3a).
- 5.1.2. Site SR8 Adjacent to Pairc na Coile Nursing Home: This site has been identified for residential development. The area of the site to the west of Park na Coille Nursing Home includes an attractive natural habitat a portion of which should be retained as open space between any new development and the existing nursing home, providing an open space buffer between the two developments. This site is located less than 1km from a known bat roost. Proposals for development on this site must be informed by an ecological assessment of the site and appropriate bat surveys and shall ensure that there is no loss of habitats used by Lesser Horseshoe bats. All design proposals, including lighting, must be informed by the results of the bat survey. A landscape management plan must also accompany any development proposals. Development proposals shall include mitigation for bats, water quality and Special Conservation Interest Birds, as set out in Volume 10a Natura Impact Report as it relates to SR8 (NIR mitigation 2,3 and 4a). There is a small watercourse (Cahircalla Stream) that runs through the site. A site-specific Flood Risk Assessment is required in accordance with Section 4.3 of the Strategic Flood Risk Assessment Volume 10c and the sequential approach will be applied.
- 5.1.3. Strategic reserve areas: These are not in general intended for development within the current plan period although part of the land may be considered subject to services meeting criteria with respect to connectivity and access to services and amenities.

‘In its assessment of such proposals, the Planning Authority must be satisfied that the development of residential zoned land is progressing faster than expected and a shortage of available lands may arise or that residential zoned land is not being brought forward as expected and a shortage may arise which would hinder the delivery of residential units to meet demand during the

plan period. The assessment will also be subject to compliance with the Core Strategy, and that the development permitted will not prejudice the future use of the remaining Strategic Residential Reserve lands for the longer-term growth needs of the plan area'

5.1.4. Strategic Flood Risk Assessment Volume 10C, Section 4.3 : Unmapped Fluvial Risk:

This states: The Flood Zones have been derived for watercourse with a catchment area greater than 5km² , which captures the majority of sources of fluvial flood risk in the Clare settlements. However, there may be cases where a watercourse is been identified, either through mapping or through site visit and local knowledge, but due to the size of the catchment, the Flood Zone has not been delineated. In these cases, it is the responsibility of the applicant to undertake an appropriately detailed FRA and to then apply the sequential approach as the Plan Making Justification Test has not been satisfied in these cases.

External lighting shall be provided in accordance with guidelines contained in Recommendations for Site Development Works in Housing Areas published by DoEHLG and any subsequent publication or successor to this document. Street lighting proposals shall have regard to Bat Conservation Ireland; Guidance Notes for: Planners, engineers, architects and developers (Bats and Lighting) together with Bat Conservation Trust; Bats and artificial lighting in the UK, Bats and the Built Environment – Guidance Note 08/18.

5.2. Clare County Development Plan 2017-2023 (effective until 19th April 2023)

- 5.2.1. In this plan the site is zoned residential. Objective R29 applies (slightly shorter than SR8 in the current CDP) Section 2.7.2 of the Ennis Municipal District Plan describes the site and objective SR26 refers to measures to protect bats. Extracts are cited in DR. Lyns appended report and referenced as they were the governing objectives at time of planning application and preparation.

5.3. Southern Regional Assembly, 10 Minute Town Framework and Methodology (July 2020)

- 5.3.1. This document assesses baseline travel data and potential catchments for walking and makes recommendations for travel modal shift in Ennis as well as Carlow and Tralee in the southern region. It highlights the weaknesses and opportunities and in the conclusion it is recommended as a strategy to include: Provision of connections

between residential estates, for example, through knocking down walls and fences, as well as providing paths between cul-de-sacs; • Provision of connections to existing walking and cycling facilities; • Improvement to bus services with provision of local services within the town, increase in frequency and widening the public transport catchment through additional bus stops and new bus services. In addition to initiatives to support travel behaviour.

5.4. Clare county Council - Ennis 2040 Economic and Spatial Strategy (May 2021) .

- 5.4.1. This is an economic and spatial strategy wherein a key strategic objective is the 10 minute town (SO4) as part of the towns economic as well as spatial growth. IT is stated that it's growth will be based on the '10 Minute Town' concept with the Town Centre at the heart of this highly accessible and revitalised Ennis - the focus for retail, residential, commercial, educational, leisure and cultural growth. Ennis will support, enhance and utilise its existing natural assets to lead the way as 'Ireland's First Climate Adaptive Town' and to create an accessible place of quality."
- 5.4.2. Section 5 refers to accessible place of quality by way of improved accessibility and supporting concept of neighbourhoods with local access to day-to-day services by sustainable modes of transport and through prioritising walking and cycling and Section 6 refers to mobility and Infrastructure and the objective to improve public transport and reduced car usage.

5.5. Project Ireland 2040 – supports National Planning Framework (February 2018),

- 5.5.1. This framework plan supports a strategy of carefully managing the sustainable growth of compact cities, towns and villages in a manner that will add value and create more attractive places in which people can live and work. Relevant objectives for infill developments in urban areas include NPOs 4,13, 33 and 35.

5.6. Rebuilding Ireland – Action Plan on Housing and Homelessness 2016

- 5.6.1. This is a government initiative which identifies the critical need for accelerating housing supply.

5.7. Section 28 Ministerial Guidance

- 5.7.1. The following guidelines are relevant for housing developments:

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities’ (December 2020)² • Urban Development and Building Heights, Guidelines for Planning Authorities (2018) Architectural Heritage Protection – Guidelines for Planning Authorities (2011)
- Design Manual for Urban Roads and Streets (2013). Interim Advice Note- Covid 19 (May 2020) as cited below is of particular relevance to this case.

5.8. Design Manual for Urban Roads and Streets

- 5.8.1. This design manual emphasises the need for permeability . Design Principle 1 is to support the creation of integrated street networks which promote higher levels of permeability and legibility for all users and in particular more sustainable transport. Chapter 3 is concerned with the creation and management of permeable and legible street networks. Design measures include layouts that connect streets to other streets and limit cul-de-sac use that provide no through access. The aim is to maximise the number of walkable /cyclable routes between destinations. Design should allow for the evolution over time of meeting local accessibility. Section 3.3.3 refers to Smarter Travel 2009 and the role of retrofitting of a permeable network. It states ‘well placed links can lead to substantial benefits for the local community in terms of reducing walking distances to essential services. Research has found that increased local movement is also beneficial to security as it can increase levels of passive surveillance. (An Evidence Based Approach to Crime and Urban Design. (2009).

5.9. Natural Heritage Designations

- 5.9.1. The nearest sites are:
- Newhall and Edenvale Complex SAC (site code 002091) (c. 2.4km)
 - Pouladatie Cave SAC (site code 000037) 2.4km away.
 - Lower River Shannon SAC (site code 002165) c. 840m away.

- The River Shannon and River Fergus Estuaries SPA (Site Code: 004077) - approximately 3.4km away.
- Ballyallia Lake SAC 2.8km away.
- Ballyallia Lough SPA 3.2km away.

5.9.2. Conservation objectives supporting document (2018) for lesser horseshoe bat (*Rhinolophus hipposideros*) for Newhall and Edenvale Complex SAC (site code 002091).

- Section 4.4 notes that Lesser Horseshoe Bats tend to forage in summer in broadleaved woodland and around riparian vegetation for each roost, a 2.5km zone is considered an appropriate distance to foraging areas for the purpose of the current SSCO targets. The 2.5km zone around each known roost is mapped and potential foraging grounds within the zone are identified and mapped for each SAC. The target is that there is no significant decline in potential foraging habitat within 2.5km of qualifying roosts.
- Section 4.5 Linear features. This species follows commuting routes from its roost to its foraging grounds. Lesser Horseshoe Bats will rarely cross open ground and are particularly averse to doing so unless it is very dark (e.g. Schofield, 2008). Consequently, in order to link roosting and foraging sites, linear features such as hedgerows, treelines and stone walls provide vital connectivity for this species, most importantly within 2.5km around each roost (Schofield, 2008). Linear features such as tree lines are also sometimes used for foraging by lesser horseshoe bats (Bontadina et al., 2002). The target is that there is no significant loss of linear features within 2.5km of qualifying roosts.
- In respect of light pollution the target is that there is no significant increase in artificial light intensity adjacent to qualifying roosts or along commuting routes within 2.5km of those roosts.

5.10. Lesser Horseshoe Bat Species Action Plan 2022-2026, Government of Ireland and Vincent Wildlife Trust

5.10.1. The aim of the plan is to guide, inform and provide structure for the conservation management of this important species over the next five years. Section 4.

summarises the Actions for roost recording and protection, roost buffers, roost monitoring, connectivity and awareness. New lighting guidelines are recommended for 2023.

5.11. Preliminary Examination Screening for Environmental Impact Assessment (EIA)

5.11.1. An Environmental Impact Assessment Screening report was not submitted with the application. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.11.2. It is proposed to construct 58 dwellings (revised to 56 in further information) which is well below the threshold of 500 dwelling units noted above. The site has an overall area of c.2.4 ha and is located within an existing partially built-up area but not in a business district. The site area is therefore well below the applicable threshold of 10 ha. The site includes a roadway and is otherwise a greenfield type being part of a partially woodland site that has extensive scrubland and is in a suburban type setting with playfields/showgrounds and low-density housing developments surrounding the site. The introduction of an additional residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that while the site is identified in the development plan as having a natural habitat, the parameters for development of the site are set down in the site specific objective SR8 which envisages housing and requires development to be informed by an ecological assessment of the site, appropriate bat surveys and that the design proposal should be accompanied by a landscape management plan and mitigation for bats, water quality and Birds of special conservation interest in addition to a site-specific Flood Risk Assessment (having regard to the small Cahircalla stream that runs through the site). These requirements have been substantially met in the submitted documents and assessment by the planning authority.

5.11.3. I further note that the site is not designated for the protection of the landscape or for its natural or cultural heritage although it is within a bat foraging range hence the need for surveys. The proposed development however is not likely to have a significant effect on any European Site (as discussed below in the AA section). There is limited hydrological connection to sensitive sites due to the culverting of a stream traversing the site. This is not likely to give rise to significant impact on nearby water courses (whether linked to any European site/or other) as also addressed in the AA section below.

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

5.11.5. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned for Residential uses in accordance with SR8 under the provisions of the Clare County Development Plan 2023-2029, and the results of the strategic environmental assessment of this Plan, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

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

environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

Michael O’Flanagan, a resident in Willsgrove has submitted an appeal with photographs, which is based on the following grounds:

- Opposed to any proposed **pedestrian /cycle link** from the development site through to Willsgrove, Cahercalla Road and most concerned about references to a potential future pedestrian linkage.
 - This would breach the wall and green space of the green area in Willsgrove
 - This is acknowledged as a direct response to CCC seeking connectivity with the national school and reviewing connectivity through adjacent lands to allow connectivity to the Kilrush Road R475 and implementing the 10 minute town initiative.
 - There were however up to 27 objections initially to the PA from residents in Willsgrove to this relating to privacy, nuisance, house security, privacy, health and safety issues (dumping) , rat run, Anti-social behaviour of unlit unsupervised alleyways, property value reduction, road safety, and legal impediments . It is submitted that all the issues raised were not fully considered in the final report following the submission of further information. More objections were submitted. All these concerns still stand.
 - Independence of decision making by CCC in this regard is questioned having regard to same planner requesting and adjudicating on this aspect.
 - Notwithstanding the origin of the principle of pedestrian linkage, CCC went on to raise serious concerns.
 - The handling of this matter by written agreement is of serious concern. Blackland nature- over development of site
 - There are serious legal impediments to a pedestrian and cycle link . such those relating to the binding and running covenant against nuisance which

is attached to all land upon which Willsgrove was constructed including the open space. Absence of legal title

- Not in accordance with the proper planning sustainable development of the area.
 - Single entrance cul-de-sac should not be an issue as it hasn't been to date.
 - Most schools to the north of the site only 2 to south.
 - The Transport Department raised no concerns about access off Drumbiggle Road and refers to compliance with DMURs regarding sightlines.
 - Willsgrove and Cahercalla Drive lack the infrastructure - cycle paths – which is the purpose of the interconnections and that there are no plans for same
- It is submitted that condition 6(b) requiring the construction of 2m high wall along the site boundary with Woodlands estate and Cahercalla Drive in the interest of protecting their amenity demonstrates an inequitable treatment as compared to Willsgrove residents
 - The council is being obstinate in being prepared to revisit links with Willsgrove from the development.
 - The appellant requests impartial decision and equitable treatment as well as ensuring protection of existing amenities.
 - The appended letter of objection to the PA also raises issues regarding traffic conflict with cycling and through traffic of estate as well as **drainage issues in Willsgrove** which relies on the subject site.

6.1.1. Brian Mc Mahon, a resident in Willsgrove has submitted an appeal which is based substantially on similar grounds as M O'Flanagan. Additional issues relate to :

- Increase in **height** of the duplexes. Four storey height would be excessive relative to existing . .
- High **density** would exacerbate **traffic** particularly where it exits onto the Drumbiggle road the most dangerous stretch of road in the town.

6.1.2. Sean Ben Connolly a Dublin resident has submitted an appeal which is based on grounds primarily relating to **bats**. Other issues relate to access to information:

- It is pointed out that the surveys by MKO, as part of the NIS, detected the presence of the lesser horseshoe bat on site. The appellant disputes the claim that the site is not within the core foraging range or CSZ of the Newhall and Edenvale complex SAC having regard to the NIS statement that the site is likely to be in the zone of impact and further assessment is required. The grant of permission breaches EU Habitats and Assessment Directives. The proposed development will potentially lead to a risk of reduction in species density and cause serious harm to this species due to the removal of vegetation on site - an important feeding ground. The NPWS state there must be no loss of feeding habitat for this bat.
- Concern about **absence of detector studies during hibernation period** given the potential for night roosts in structures on site, lack of flight path detail and potential impact on commuting routes. Also concern about lack of information on lighting given its impact on this most photophobic of bat species impact of road traffic noise.
- It is explained that the **EIA and NIS reports were difficult to access** and following a request for this information under FOI, it was acknowledged by the planning authority that pages were missing.

6.1.3. Kevin Tiernan, a resident in Wills Grove has submitted an appeal which is based on grounds primarily relating to **ecological matters**. It is submitted that:

- the NIS and EIA are deficient as supported by an independent assessment Dr. William O'Connor of ECoFact Environmental Consultants on behalf of the appellant. The inadequacy is based on timings of surveys and omission of particular locations within the site. The reports do not present an accurate picture of bat species within the site and will be effectively destroyed by the proposal.
- The proposal contravenes the CDP in respect of its objectives to protect wildlife, biodiversity and the environment. It would also be contrary to the County Clare Biodiversity Plan and the Clare County Heritage Plan 2017-2023.
- The development will result in a dangerous increase in **pollution** in and around the River Fergus due to **discharge capacity** issues.

6.1.4. John Thodnett, Ratoath Co. Meath has submitted an appeal which on grounds relating to the inadequacy of the **Bat Surveys**. It is supported by a report by Veon Consultants and sets out **inefficiencies in survey methodology**.

6.2. Observations

- 6.2.1. Dr. Kate McAney of the Vincet Wildlife Trust: This observing party completed a PhD on bats and as part of this, studied the lesser horseshoe bat maternity colony at Newhall and more recently is co-author of Species Action Plan with the NPWS . Her observations raise concerns on the impact of the proposed development on the species due to the loss of habitat, increase in artificial lighting and vehicular traffic and overall negative impact on foraging. There is also a risk of impact on connectivity. The bat survey methodology is also critiqued.

6.3. Planning Authority Response

- 6.3.1. In a letter dated 28th April 2022 the PA comments as follows, on the appeal grounds:
- In respect of the pedestrian link it is clarified that that has not been permitted within the scope of the permission, but the future connection nevertheless has merit having regard to the showgrounds and the opportunity for permeability and also access to schools to the south.
 - It is acknowledged that part of 3(b) of the further information has not been addressed by the applicant.
 - Condition 6(b) is considered to address boundary treatment concerns.
 - Ecological/Biodiversity details submitted , by reference to the council ecological report and planning assessment are considered compliant with requirements of council policy – (Development plan, Biodiversity Action Plan and Heritage plan. AA was as also considered. Potential impacts on bats were comprehensively assessed by the PA.
 - Adverse impacts on visual and residential amenity have been addressed.
 - It is clarified that the issues raised in the third-party observation on the application were considered material considerations by the planning authority and a full assessment including the provision for third party involvement was carried out in accordance with statutory requirements.
 - Future development is subject of further application(s) and assessed on merits.
 - Water quality issues have been assessed in the various technical Assessment on files including that by Irish Water.

- In conclusion the appeal contents have been noted and considered and it is the view of the PA that having regard to the zoning, nature of proposal, section 28 guidelines, the development plan and pattern of development that subject to conditions the proposed development is acceptable and is not considered to seriously injure residential amenities and would be acceptable in terms of traffic and pedestrian safety and convenience.

6.4. Applicant's Response.

- 6.4.1. The applicant has made two separate responses; One relating to interconnectivity issues , impact on residential amenities and drainage and the other relates to ecological matters as raised by the respective third parties.
- 6.4.2. In the response received on 3rd May 2022 the applicant refutes the points raised by Michael O'Flanagan and Brian McMahon.
 - A rat-run is not possible as a consequence of the development as there is no provision of vehicular interconnection - the layout only provides for future cycling /pedestrian linkages.
 - It is explained that the landscaping and pedestrian/cycle linkage layout was modified in revised plans as part of FI. The original routes traversing the proposed green space up to the boundary wall were removed . It is pointed out that the layout provides for future interconnection in line with DMURS. Guidance Section 3. Pedestrian Permeability and Legibility. And also Sustainable Residential Development in Urban Areas- guidelines for Planning Authorities 2009 Guidelines which include Connectivity and Permeability as key design principles.
 - The anti-social behaviour concerns arising from the design are disputed on the basis of the proposed wall and also the wider context of the zoning of the lands for residential development.
 - The plan also incorporates lighting throughout the site and open spaces.
 - Traffic safety has been addressed and the proposal would not create harmful impacts to pedestrians. This is supported by a Traffic and Transportation assessment which includes traffic counts and analysis along with an RSA Stage 1, both of which informed the design process. Further information in relation to design detail for traffic safety was also provided in additional information such as 4m wide cycle and pedestrian lane in the norther east section of the site. It is

pointed that in accordance with the National Cycle Manual, shared surfaces are the preferred arrangement for areas where 30kph speed limit applies. The future development of an integrated network is supported by the financial contributed as part of planned development.

- The legal impediments are disputed.

6.4.3. In the response received on 5th May 2022, the applicant refutes the respective grounds of appeal by Kevin Tiernan, Sean Ben Connolly and John Hodnett in a single submission. These issues are summarised in appended report by Dr Maeve Flynn (An Bord Pleanála) . The applicant's response focuses on ecology as elaborated in Appendix 2 of the response submission and addresses:

- Compliance with the CDP
- Cumulative impacts
- Clarification of survey methodology, effects and impacts on bat species.
- Mitigation measures for ensuring no adverse impact on bats.
- Impacts on water quality.
- Impacts on Badgers.

7.0 Assessment

7.1. Issues

7.1.1. I have inspected the site and the surrounding area and read the submissions on the file while having regard to the proposed development in the context of the relevant planning policies and guidance for the nature and location of the site. As the site is residentially zoned in a serviced area in a key town in the Core Strategy and surrounded by development, the principle of housing is I consider acceptable. I say this having particular regard to the most recent adopted development plan wherein the site is subject of a site-specific objective (SR8), an objective substantially carried from the previous development plan which governed the criteria for assessment up to March 2023 of this year. The principle of consolidation is further mandated by national policy, although predicated on impact on the surrounding development and environs. Accordingly, having considered this information, I consider the issues to be addressed under this appeal can be grouped under the following headings:

- **Intensity of development/overdevelopment** - height and density.
- **Connectivity/Pedestrian and cycle linkage**
- **Traffic safety**
- **Impact on amenities** - Boundary Treatment
- **Drainage**
- **Ecological Impact** - Impact on Bats and Pollution Risk.
- **Archaeological impact.**
- **Procedural** - Bias and access to information - EclA and NIS report access.
- **Appropriate Assessment.**

7.2. Intensity of development/overdevelopment

- 7.2.1. The issue of intensity of development is raised by reference to the proposed height and scale of development in what is described as a backland type development. Having regard to the site area which extends to c 2.4 ha with a net housing and net residential development area of c.1.79hectares and also having regard to the extensive road frontage of the site albeit a cul-de sac road off the Drumbiggle Road/Showgrounds Road, I do not consider the site to be backland in nature. Development for comprehensive housing is clearly supported in this site in the development plan in objective SR8. While I note the 'strategic reservation' category, I consider regard should also be had to the government policy for housing supply and for spatial policy. In this context, the provision of housing in a serviced town such as Ennis is, in my judgement, appropriate .
- 7.2.2. Furthermore, I note in the recently published Sustainable and Compact Settlements Guidelines for Planning Authorities Proposed Policy Approach Consultation Paper – March 2023, it is clear that national planning policy focused on Compact Urban Growth is further reinforced. This policy is I note informed by the Climate Action Plan 2023, Housing for All 2021 and mobility management strategies among other policies. The NPF is notably referenced wherein there is a target to provide 50% of new housing growth in the five cities and more relevantly a target of 30% of new housing growth is set for all other settlements, within the existing built-up footprint, on infill and brownfield lands. The approach of compact growth which sees the renewal of existing settlements, rather than continued sprawl, is a key priority of the NPF in order to maximise quality of life, improve access to services, ensure efficient

use of land and allow for greater integration with existing infrastructure and public transport. Accordingly the preferred approach is to focus on the greater reuse of brownfield and infill lands within the built-up area of existing settlements and the development of sites in locations served by existing facilities and public transport.

- 7.2.3. The initial density of 32 units per hectare was proposed and marginally reduced with the omission of two units in response to the planning authority's request for further information regarding good design layout and matters of detail. I note that this is based on the residual residential site in the order of 1.8ha which excludes the existing access road. In the revised plans the provision of open space increased to 21%.
- 7.2.4. While I accept that the retention of a green corridor places some constraints on the density, it is I consider low on its own merits and by reference to the ministerial guide of 35-50 units per hectare for suburban greenfield sites. I refer to the Sustainable Residential Development Guidelines 2009 which notably promote a three-tiered approach to residential density, with densities of up to 35 dwellings per hectare (dph) in smaller towns and villages, densities of 35 to 50 dph in outer suburban and greenfield areas of cities and large towns, and densities of 50 dph + in more central and accessible urban locations. It would appear that in this context, considerable regard has been given to the prevailing character of the surrounding low-density housing and wildlife habitat.
- 7.2.5. In terms of harmonising with the prevailing built character that is formed by a mix of house types and the larger scaled nursing home, I consider the proposed scheme of a range of dwelling types and forms to be compatible. The adjacent single storey dwellings as part of the retirement village scheme are not, I consider an appropriate reference for determining all future adjacent housing. However, the proposed two-storey dwellings are well set back on the opposite side of the road to these, with more than 23m opposing facades and this provides generous separation.
- 7.2.6. There is criticism of the proposed height of the scheme on the understanding that it appears as four storeys. The proposal in fact rises only to 3 storeys. I note this height relates to 22 units as provided in duplex units which are arranged in 11 no. two-storey units over 11 no. one-storey units laid out in two terraces and perpendicular to the western boundary and overlooking planned open space in phase 2 – not subject of this application. The proposed gable ends therefore face

the western boundary and will be screened from the adjacent existing housing backing onto the site by a landscaped buffer. The gable ends are set back by more than 20m and it is proposed to retain the belt of ash trees as indicated in the arboricultural assessment /landscape plan while clearing out the scrub. I note that duplexes rise to just over 11.8m in height. The site section B-B Part 1 drawing (Dec 2021) illustrates that the actual ordnance levels of the proposed tallest elements rise to approx. 26.5mOD as compared to an existing roof level of 26.1mOD for the more elevated no.33 Wills Grove. I consider the 3-storey height in this context can be readily absorbed in the surrounding environment and will not be obtrusive or inappropriate.

- 7.2.7. While I note the residential housing guidelines advise of the need to respect existing character, for reason already stated, I consider the overall design can be absorbed into the site without unduly altering or impinging on the character of the area. I consider this to be an appropriate balance between providing for an efficient use of serviced land and according with a policy of directing development to create compact towns and villages while respecting the low-density character of the area. In such circumstances, it accords with proper planning and sustainable development.
- 7.2.8. On balance, I concur with the planning authority's considered assessment with the benefit of modified plans and consider that in overall terms the housing layout in terms of density and form adheres to the principles for good housing layouts and is generally acceptable. Accordingly, I consider the nature of the proposed two and three storey housing development to constitute an appropriate form of development which can be adequately accommodated within the site. Having regard to the prevailing density, I do not agree that the development of 56 units on a residual 1.79ha can be described as overly dense or that it could be considered overdevelopment.

7.3. Connectivity/pedestrian and cycle linkage

- 7.3.1. There is considerable opposition to non-vehicular interconnection of the development site with the existing cul-de-sac development. The surrounding residents, particularly those in Wills Grove to the South, are strongly opposed to any form of linkage. This is based on an anticipated potential for disturbance and altering of the character of the established small-scale development. A vulnerability is anticipated by the potential behaviours and nuisances associated with through

pedestrian traffic. Concerns are further expressed regarding the lack of open space in the proposal and the intensification of visitor use of the existing open space enjoyed by the residents of the Willsgrove. It is further pointed out that the applicant does not have sufficient legal interest to complete these works and I note the extensive side garden at 34 Willsgrove which backs onto the subject site. The appellants are also concerned about what is perceived as bias on the part of the planning authority in pursuing connection.

- 7.3.2. As I have previously cited, the statutory planning guidance and national strategy is to reduce car dependency and a key land use and urban design measure is to provide for interconnection in built up areas, for pedestrians in particular so as to provide more direct routes to essential services. It is also a priority of the NPF to achieve an increase in residential densities in settlements and to develop these in a more integrated and connected manner with better integration between land-uses and transport. This strategy is a core theme in the Climate Action Plan 2023 in its aim to reduce car usage through avoidance. One of the transport actions (TR/23/14*(TF) in the Annex of Actions (for avoiding vehicle kilometres is through integrated enhanced spatial and land use planning measures) is to 'Promote widespread, consistent and accelerated implementation of the Design Manual for Urban Road and Streets to ensure improved placemaking and accessibility, including delivery of 10-Minute Towns and 15-Minute Cities'. Accordingly I consider the planning authority is being rational and reasonable in its approach to encouraging and providing connectivity.
- 7.3.3. The residents explain that there is very limited benefit to be gained in terms of accessibility due to locations of schools and services. I note however that enhanced accessibility is demonstrated in the catchment maps, particularly for cycling, as appended to the Southern Regional Assembly 10 Minute Towns Accessibility and Framework Report (2020) for Ennis (and also Tralee and Carlow). While I accept there are more optimal sites for maximising pedestrian/cycle 10-minute trips to services and that instant access to existing services is more limited than more central sites, over the longer term, by adhering to a strategy of consolidation and connectivity will make provision of alternative travel modes to the car more viable. Accordingly, I consider the approach of the planning authority to seek and approve a layout that will provide for such interconnection in the future is reasonable and in accordance with good urban design practice and proper planning and sustainable development .

- 7.3.4. At a detailed level there are some design issues which restrict an optimal linkage. The applicant accordingly has proposed to omit completion of this, but the housing and open space layout nevertheless provides for a potential connection in the future. My understanding from the internal technical reports on file is that a 4m wide route is desired and that any obstacles in terms of property rights are anticipated to be subject of separate process such as compulsory acquisition which is not the subject of this appeal.
- 7.3.5. While I note concerns over the legal interests of the applicant to carry out the works associated with the pedestrian link, I would refer the Board to Section 34(13) of Planning Act which provides that permission under this Act does not give an automatic right to develop and this is further explained in Section 5.13 of the Government publication, Development Management: Guidelines for Planning Authorities, (2007 as updated).
- 7.3.6. Ultimately, the proposed layout provides for future interconnection which I consider is a positive aspect of the proposal. It is however not now part of the development. However as the existing and proposed roads, pathways and open spaces are potentially in the charge of the council, future connection, if proceeded with, may be subject to a separate process. I consider a restriction on such interconnection in the event of permission to run counter to good urban design principles, the aims of the Climate Action Plan and would be contrary to the proper planning and sustainable development of the area.

7.4. Traffic Safety

- 7.5. The appellants make the case that the proposed development, considered by some to be high density, would give rise to a traffic hazard due to the intensification of traffic on the Drumbiggle Road. The site entrance is stated to exit onto the most dangerous stretch of road in the town. The application I note was accompanied by a Traffic and Transportation Assessment and Road Safety Audit and further assessed by the engineering divisions of the planning authority including the Road Design office. I note for example that the junction and road layout has been informed by traffic counts and analyses and further augmented by detailed design measures for traffic safety such as 4m wide cycle and pedestrian path on approach to the Drumbiggle Road junction.

- 7.6.** More specifically, I note that the assessment takes account of future potential development including 117 dwellings in the wider site. Trip rates were used based on TRICS and the analyses of the junctions and road capacity concludes that for the design year up to 2038, the junctions at N84/R474 Beecher roundabout, R474/Drumbiggie priority junction and at R458/Drumbiggie Road will all continue to operate within their respective capacities with only minor impacts consequent on the proposal. The existing access road into the development is to be realigned and footpaths, cycle paths and pedestrian crossing are provided for. Double yellow lines are proposed to prevent obstructive parking at the junction. Adjustments to the neighbouring sportsground entrance are also proposed to formalise this junction. Within the development, the layout has also been subject to detailed review on turning areas, surfaces and access for utilities as well and convenience for parking and residents. Furthermore, ongoing safety measures are I accept provided for by the council as financed by the development contribution scheme which is applied to the scheme through the attachment of a section 48 condition.
- 7.7.** The layout does not provide for rat-running and comments regarding the potential impact on traffic safety by cycling through, for example, the adjoining housing estates and causing a traffic obstruction are not reasonable having regard to the design of the road networks and low volumes of traffic. The criticism of the strategy to provide for cycling is I consider, weak in the context of national policies and plans advocating and investing in a modal shift from car usage - such measures in fact potentially serve to protect the capacity of the road infrastructure in the longer term.
- 7.8.** I do not consider there are any reasonable traffic related grounds to refuse permission.
- 7.9. Impact on residential amenity.**
- 7.9.1.** The Willsgrove residents consider the boundary treatment to the respective adjacent developments to be inequitable and seek a similar 2m high wall as provided by condition for the boundary with Cahercalla Drive and the Woodlands estate. While I see no issue with providing screening of private rear gardens from public views as it is standard good practice, I do not consider a high wall is appropriate where it traverses a green corridor of open space. Accordingly I consider where the site adjoins private gardens that it should be reinforced where necessary to provide screening. I consider Condition 6(b) to adequately address boundary treatment and

could be extended to Nos 33 and 34 Wills Grove. Given the extent of trees to be maintained along the boundary I also consider it appropriate to provide for root protection during the screening design/construction as is provided for in the planning authority condition.

- 7.9.2. It is further submitted that the development is excessive in height which I have already concluded is appropriate in terms of both prevailing heights and urban design.
- 7.9.3. There are references to loss of privacy. In terms of the interface between existing and proposed dwellings, I do not consider loss of privacy to constitute a significant issue. I note however on foot of the request for further information to address surveillance of open space, the layout has been revised from a series of gable ends along the western side at the closer point between proposed and housing in Cahercalla Drive. An additional row of 6 dwellings in two terraces now face the western boundary- rear boundaries of the houses. This is an addition to a row of two storey houses, Nos. 5-10, to the south which face the boundary but with facades at least 57m from the opposing rear elevation. The nearest façade from the rear boundary of dwellings along Cahercalla Drive are at distances of 11-12m in the revised layout although there is an intervening mature and supplemented landscaped boundary. There are also gable ends at the southern end of the proposed layout – i.e., to the north of the rear garden boundaries of the dwellings in the Woodlands which will not give rise to undue overlooking or overshadowing. The stepped arrangement of units 1-4 (revised from 5 units) also provide a generous set back from the existing single storey dwelling to the west and will not give rise to undue overlooking. I would recommend reinstating the layout in respect of houses nos. 12-23 in the original layout (June 2021) thereby removing the three nearer west-facing terraced houses while still leaving 9 houses directly overlooking the linear open space to the west. Having regard to the mature boundary trees, the reinstated houses are likely to have better access to sunlight in this configuration.
- 7.9.4. The duplexes southeast of Wills Grove will provide some passive overlooking of the open space which is shown to be overlooked by future housing as part of a longer-term layout plan. I note the layout for the duplexes is such that the flat roof to the rear over the ground floor apartment is not designed as a terrace. This would improve passive surveillance of the open space as well as enhancing the amenities of the

duplexes. However to require this by condition would be a material change and not within the scope of this permission.

- 7.9.5. In terms of open space layout, I further note the design criteria in the current development plan objective SR8 for the subject site is to maintain an open space /aspect for the nursing home to the east. At present the site is boarded up, whereas the proposal seeks to widen the road and open up the aspect in this layout and further extend this open space in phase 2, subject to permission. This is in accordance with the design criteria and is I consider a positive aspect of the layout. With respect to impact on Willsgrove, I consider the distance and angle of the nearest duplex at over 28m between the rear elevations in Willsgrove and which are at oblique angles will not result in any direct overlooking. There is also intervening landscaping at this point to the rear of the Willsgrove estate which is also subject of existing and proposed tree retention and landscaping which will contribute to privacy protection.
- 7.9.6. There is concern about the impact on public open space. However this is not being reduced or impinged in anyway. I consider a sufficient balance has been struck between the providing infill housing of 32 units per hectare while providing reasonable protection of amenities and privacy of adjacent dwellings while also protecting the character of the area.
- 7.9.7. Accordingly having regard to the proposed design and pattern of development in the area, I consider the proposal to be acceptable in terms of visual and residential amenities.

7.10. Drainage

- 7.10.1. The appellants raise concerns about inadequate provision for surface water drainage. This matter I note was raised in the objections to the planning authority with reference to overloading on the culverted stream traversing the site and impact on drains – the concern being about the impacts on surrounding properties. I note that the recently current development plan has extended the criteria for development on the subject lands to include a site-specific flood risk assessment (SR8). While this is not part of the submitted documentation as it was not a requirement under the governing plan at the time of application, there is detailed information provided about the culverted stream and its attenuation capacity within the site. This is based on projections taking account of 1 in 100 year flood events

with additional allowance for climate change. The applicant also clarifies in further information, as illustrated in the FI drawings, the culvert and wayleave location and arrangements. As the site is outside the flood risk zones A and B as mapped in the current development plan, it would appear that the vulnerable link to a flood risk is via the culvert and stream which feed into the River Fergus. It would appear to me that the culvert could be technically overloaded and exacerbated in the event of an extreme flood event downstream depending on design/valve features. In view of the criteria in objective SR8, I consider the matter merits consideration.

7.10.2. In response to a request for further information in respect of attenuation and culvert maintenance/wayleave arrangements and following survey work by the applicant, it is confirmed that the existing attenuation unit of 320m³ is on the north of the access of road in the site and as shown in drawings. The drainage design is stated to take account of this. In response to the PA query about the capacity and overall lands (including those outlined in blue), it is stated:

An indicative drainage proposal for the overall masterplan is now included within this FI. Please refer to new drawing 11093-2018 for details. It is noted that the future phases of the site masterplan do not form part of this planning application and are therefore subject to revision. The design of the attenuation system pertaining to this application (ref.21/599) proposes to utilise the attenuation to the existing culvert which has capacity of 628 m³.

The indicative proposal for the future drainage as indicated in this Further Information response envisages that the stormwater drainage for any future phases subject to standalone planning application will be catered for within primarily multiple storage attenuation units with overflow to the existing attenuation culvert as shown in drainage 11093-2018. The outline proposal for the future phases of the overall development includes for a storage requirement of 340 m³. (100-year storm event plus 20% climate change.) The application proposes for a storage requirement of 364 m³ metres (100-year storm event plus 20% climate change) which will utilise the previously constructed infrastructure (propriety attenuation of 320 m³ designed to allow for the overflow of 44 m³ to enter the existing attenuation culvert of 628 m³ capacity. The existing 320 m³ attenuation tank is discharging using a hydro brake at 2L/s/ha to the public network. The drainage network of this

development and future development was designed using Micro drainage modelling software.

Phase 1 (21/599) – 364m³ stormwater attenuation required.

320 m³ attenuation tank already constructed and discharging to public stormwater drainage.

Attenuation culvert available for overflow of 44 cubic metres from phase 1 in event of 1 in 100 year plus 20% climate change.

Phase 2 – subject to Planning permission

340m³ attenuation required by multiple attenuation units.

Multiple attenuation units using hydro brakes discharging water in the attenuation culvert at 2L/s/ha

Attenuation culvert (628 m³ capacity) with hydrobrake discharging into public stormwater drainage.

7.10.3. In total, phase 1 and 2 storage requirements amount to 704m³. Overall capacity available

Phase 1 –	320 m ³
Phase 2 –	340 m ³
Existing attenuation culvert	<u>683 m³</u>
Total	1288 m ³

7.10.4. In summary the above information demonstrates there is adequate provision for the management of stormwater for the proposed site associated with this current planning application and also for the remainder of the lands in the following phase based on a one in a 100year design plus 20% climate change. It is not exactly clear to me to what extent, if any, the nursing home site impacts on the culvert – although I am satisfied that the municipal area engineer has this information. I note there is no objection in principle, to the proposal on drainage grounds from the technical departments of the planning authority. The Ennis Municipal District Planning report on this FI (dated 10/3/22) notes the use of existing infrastructure and recommends conditions relating to; hydrocarbon interceptors which are not in the existing network and which discharges to Fergus River at Woodquay, standard of installation to manufacturers requirements, culvert maintenance and wayleave arrangements.

7.10.5. It would appear that the potential deficiencies of the initially proposed drainage arrangements to use the existing attenuation system which was designed for 1 in 50-year storm events (and a high-level connection to the concrete culvert for additional volumes to be attenuated) have been addressed. In the revised drawings the existing attenuation is shown as having capacity for up to 683m³. In view of the flood risk prevention measures not previously required at time of application in SR8 and the absence of a FRA, I consider a more precautionary approach should be taken so as to take account of future capacity issues on the culvert due to possible flooding downstream. There is a good safeguard in the phased approach to developing the overall lands, however future remedies cannot rely on development for which there is no consent. Phase 2 attenuation is shown as having a combined capacity of 340 m³ and this is in lands outlined in blue. It is proposed to utilise the existing storm sewer network and modular attenuation storage unit as intended in the original application design under planning permission ref 0621010 for the entire site. However it was acknowledged that the capacity is insufficient for 1 in 100-year storm events and that the proposed development will exacerbate this matter, hence further information.

7.10.6. Ultimately the applicant has submitted an engineer's report setting out the calculations for capacity of the surface water drainage network and concludes on this basis that there is adequate provision for the management of stormwater for the proposed site and also for the remainder of the lands (phase 2) based on 1 in 100-year design plus 20% climate change allowance. This is acceptable to the Ennis Municipal Engineer and is acceptable subject to conditions which I would recommend including in the event of permission. I further note that Irish Water has stated that there are feasible connections to the foul sewer and water supply but is clear that storm water is a matter for the planning authority. (Reference in appeal response to statement of 'feasible without infrastructure upgrade by IW' in their letter of 4/11/21 and letter in appendix of NIS). On balance I do not consider it reasonable to refuse permission for reasons relating to drainage. I would however recommend amending the conditions, in the event of permission, to require further details on culvert capacity and additional sustainable drainage systems (SuDs) so as to reduce culvert reliance and manage the stormwater to mimic natural drainage as part of the attenuation design and to agree such matters of detail with the planning authority. As a further precautionary measure, the Board may give consideration to requiring

demonstration that finished floor levels achieve sufficient freeboard. In what would appear to be an unlikely event of materially raising of any roof heights, this would I consider be subject to permission in the interest of transparency and third-party rights.

7.11. Ecology

7.11.1. Aside from the particular concerns about impact on European Sites and associated species, there is concern expressed about the localised impact on the ecology of the area by developing a woodland type site, resulting in a loss of species population, notably bats, through loss of foraging ground, and in this way contravening the County Development Plan in respect of its objectives to protect wildlife, biodiversity and the environment. It is also submitted to be contrary to the County Clare Biodiversity 2023 and the Clare County Heritage Plan 2017-2023.

7.11.2. The CDP objectives provide for the protection of biodiversity both generally and in urban context. DP15.13 refers to the protection of biodiversity and habitats in the wider county whereas CDP15.12 relates to urban ecology. The latter states:

It is an objective of Clare County Council:

- a) To encourage and, where appropriate, enhance the provision of biodiversity features in urban areas through the preparation of local areas plans/settlement plans, green infrastructure strategies, ecosystem services, and through the development management process;
- b) To support investment in the on-going maintenance and enhancement of facilities in existing green infrastructure and to support the provision of new public, parks, green space corridors and other public open spaces in tandem with projected population growth to create green, healthy settlements throughout the County;
- c) To ensure that plans for new public parks and associated facilities are informed by environmental assessment and green infrastructure objectives;
- d) To ensure that any new lighting proposals and upgrades to existing lighting infrastructure are designed in a manner which considers any sensitive species within the area, such as bats and their roosts; and
- e) To encourage (where appropriate) swift nesting areas in new or retrofitted urban buildings and to protect existing nesting locations.

7.11.3. An Ecological Impact Assessment was undertaken by the applicant and submitted with the application and subsequently amended to take account, *inter alia*, of revisions to layout, landscaping and services. This report was prepared by a list of named consultants within McCarthy Keville O'Sullivan and in consultation with published guidance for such assessment in Ireland. It notably takes account of an Arboricultural Impact Assessment prepared separately by Arbor-care Professional Consulting Tree Service which highlights that there are few trees of significance with much of the site comprising scrub, a dense immature woodland and a cluster of dense hawthorn. Two sycamore and two ash are noted to be in conflict with the development and no mature trees are to be removed within the red line boundary. I further note the baseline description in section 2.3.3 of the AA screening report which lists the species in detail. It refers to the extensive scrub, recolonising bare ground, building and artificial surfaces (old pre-fab and culvert works), immature woodland and some sections resembling oak-ash-hazel woodland. Having regard to the extensive submissions in this regard, I have reviewed the EclA and also sought an expert opinion from Dr. Meave Flynn, Ecologist of an Bord Pleanála on the technical submissions in respect of bats. (Report attached.)

Impact on woodland and scrub habitat

7.11.4. There will be a loss of habitat as part of site preparation, but it is considered slight - moderate, however the retention of the linear boundary features prior to site works and supplementary planting of indigenous species to enhance these linear features will result in a minor residual negative impact in a local context. Having reviewed the Tree survey and reports and inspected the site I consider this to be a reasonable account and feasible conclusion.

Impact on watercourse and associate aquatic fauna

7.11.5. Construction: In the absence of best practice design measures there is potential for surface and groundwater pollution in stream and in the River Fergus 900m east . The run-off silt, nutrients and other pollutants such as hydrocarbons could have indirect impact on aquatic species.

7.11.6. Operational: Similarly at this stage in the absence of best practice, potential pollution in surface and ground water could impact on the stream and downstream fauna and potentially have a long term but slight negative impact at local scale given the location of the watercourse and River Fergus. Wastewater will discharge to the foul

sewer in the spine road and to the public network which is confirmed as feasible by Irish Water (Appendix II of the NIS) . I further note the upgrade and capacity of the wastewater treatment plant serving Ennis. (Appendix 2 of applicant response on 5th May 2022). Stormwater is also addressed as referred to in this report already as part the drainage assessment and in the EcIA, it is stated that measures robustly block any potential impact pathway to River Fergus.

- 7.11.7. Conclusion: I note that the council engineers refer to an absence of hydrocarbon filters and therefore I consider that the proposal will provide an opportunity to upgrade the filtering and management of the existing system which discharges to the culverted stream and so is a positive aspect of the proposal. The proposal is stated to be designed to avoid significant impacts on any watercourse such as the culvert/stream and due to its location in any event, negative impact is limited . I consider the conclusion is reasonable that with the incorporation of mitigation as set out in the report that there will be no likely significant impacts on water quality of the watercourse, downstream wetlands or associated aquatic fauna species as a result of development. Accordingly the concerns about pollution of the River Fergus are addressed. Standard CEMP will protect groundwater during construction.

Impacts on Fauna (excluding bats)

- 7.11.8. Construction: Occasional visiting mammals such as fox, hare or badger may be disturbed in the short-term, but these were not observed during survey work. I note no badger breeding or resting sites were recorded in 2021 but does not preclude visitors. Adhering to best practice measures, e.g. Daylight working, no artificial construction lighting, pre-commencement survey among other measures, will ensure no significant effect on mammalian species.

Impact on Bats

- 7.11.9. Construction: No roosting bats were recording although a few trees were identified as having potential. The loss of the commuting and foraging habitat is identified as a negative effect . However the landscape management plan retains woodland habitat along the southwestern boundary, and this is in addition to supplementary planting. Precautionary best practice measures will be undertaken to prevent felling of trees with roosts e.g. pre-commencement survey and licencing if required, 24-hour rest *in situ* of felled trees. Crucially there will be no net loss of linear features used for

commuting species. Accordingly no significant loss of bat roosting habitat is anticipated with these mitigation measures.

7.11.10. Operational: At this stage, lighting may disturb bats at a local level which, without mitigation, may have a long-term permanent slight negative impact. An outdoor lighting plan for this stage has been prepared and submitted as further information. The design is by Sabre Electrical Service Ltd. and aims to minimise light spillage and reduce potential disturbance. Such lighting features include:

- Warm white LED which allows directional luminaires.
- Use of internal and rear louvres to reduce light spill and prevent upward light.
- Rear shields to lights along the southwestern site boundary.
- Tilting to ensure limited light spill.
- Dimming of public lighting in the residential area.
- Intelligent PIR lighting along pathways so that the sections are only lit when in use.

7.11.11. These measures are stated to result in minimal lighting associated with the linear park woodland walk. Following the incorporation of the mitigation measure in the EclA, no potential for significant effect on local bats is predicted at any geographic scale.

7.11.12. I also refer the Board to the Appropriate Assessment section of this report and the appended report by Meave Flynn BSc. PhD, MCIEEM, Ecologist in an Bord Pleanála who has reviewed the considerably detailed appellant grounds particularly in relation to bats, the DAU submissions which query the NIS in relation to bat surveys, in addition to the application documents in relation to bats species. I note her comments under the heading 'examination and evaluation':

- that the bat roost within 500m was considered in the development plan review and that the survey was designed with knowledge that LHB were likely to be present in the area and that she does not consider the failure to document an existing record of a bat roost closer to the development outside the SACs compromises an assessment of impacts ,
- that the surveys are noted to have been carried out within the recommended season,

- that the use of static recorders combined with a walked transect provides adequate data in this case,
- satisfied that the loss of <2.4ha of scrub habitat [actually c. 1.79ha is the development area as about .5ha relates to existing road] with mature treeline retention would not be a significant loss in the wider landscape of this area, and
- that the retention of the western perimeter commuting corridor with supplementary planting and proposed landscape plan will ensure commuting and foraging opportunities for bat species at this location.
- For LHB, conservation objectives rely on no significant loss of foraging habitat within 2.5km of roost sites. she confirms that the development site is not within potential foraging by reference to the mapped areas by the NPWS. [I have further verified this in the Conservation objective maps of foraging grounds within the foraging ranges of identified roost in the NPWS documentation and indicate this in my photos and context maps.]
- The static detector is appropriate and necessary, and data supports that the western area is the most important linear feature on site and in its connectivity with the wider area and should be retained. Its retention will maintain linkages.
- Surveys undertaken are proportionate to the nature size and scale of the site.
- In terms of impact Dr Flynn accepts that a clearer illustration of flightlines would have been helpful but taking account of the treeline and bat activity picked up, it is reasonable to determine that the west side is the most important and is further satisfied that the mitigation measures are in accordance with the development plan as reviewed in the natura impact report.
- Pre-construction bat surveys all for correct legal approach In line with Habitat Regulations should a roost be identified . There is no requirement for a derogation licence to accompany a planning application under the Regulations. A licence will be applied should it be required.

7.11.13. Accordingly I note the adequacy of submitted information and the concluding statements that “there will be a loss of scrub and immature woodland on the site reducing the foraging area available for all bat species at this location. The retention of the western perimeter of mature trees and mature trees along the northern boundary of the site and a detailed lighting plan will ensure habitat connectivity is

maintained with other habitats in line with the provisions of the County Development Plan and also conservation objectives of the SAC. Conditions are also recommended in the event of permission.

7.11.14. I also refer to my previous comments about relocating houses back to a southern orientation (north-south axis) as this will minimise light spill from windows at a narrower point along the walkway. I say this having regard to my review also of the current NPWS conservation objectives for LHB in the nearest SACs and the supporting documentation and the particular provision for improved lighting guidance in the Bat Species Action Plan for 2022-2026 as cited in section 5 of this report and which appear to be therefore the most up to date. A condition requiring that the lighting design be subject to agreement will allow for amendment in line with best practice at time of construction.

7.11.15. On balance, I consider the details submitted, without prejudicing the conclusions of the Appropriate Assessment, are comprehensive and demonstrate adherence to the current development plan aims in respect of biodiversity while accommodating housing in accordance with the site-specific objective SR8. In this regard I note that the objectives in respect of bats in the previous development plan are consistent with those of the current development plan. I am satisfied that the applicant has demonstrated substantial compliance with all elements of the CDP15.12 objective regarding urban ecology and that it cannot be reasonably concluded to be either contrary to or in material contravention of the biodiversity objectives of this CDP. Accordingly, I do not consider there to be reasonable grounds to refuse permission on the basis of impact on ecology or biodiversity.

7.12. Potential famine burial ground

7.12.1. Regarding the claim of a potential famine burial ground and other sites of archaeological interest, the planning authority notes that there is no evidence of such and no recorded monuments on the site. I concur with the opinion that a condition requiring archaeological monitoring would safeguard against any potential sites of heritage interest. I consider this to adequately address this matter having regard to the development plan objectives for the site, the absence of any substantiated evidence and the guidance for archaeological heritage such as Office of Planning

Regulator leaflet 13 – Archaeology in the Planning Process and as contained in Framework and Principles for the Protection of the Archaeological Heritage, 1999. Section 3.3 of the latter provides for an approach such that ‘whenever the archaeological heritage is affected, or proposed to be affected, by development the approach to be followed must be preservation in-situ or preservation by record through archaeological excavation and recording’. In this case, which relates to a woodland/scrub site with no structures with foundations other than of a prefab type, I consider in the event of discovery of artefacts that the approach of preservation by record and where preservation in situ is not feasible, is a reasonable approach for a site that is zoned for development and is of part of critical provision of housing in national policy.

Accordingly, I consider a condition to include archaeological monitoring, supervision and recording of findings together with the provision for liaison with the National Monuments Service throughout construction to ensure appropriate mitigation by avoidance, reduction and remediation where appropriate, is reasonable. I note the DAU request a verbatim condition in line with its recommendation and would recommend incorporating this in the event of permission.

7.13. Other matters

- 7.13.1. The appellants refer to biased treatment of the planning authority. From my reading of the submissions and reports on file and by reference to ministerial guidance to planning authorities, as cited already, I consider all planning and sustainable development criteria have been reasonably considered.
- 7.13.2. I have reviewed the conditions attached by the planning authority and consider some to be superfluous in detail. I also consider the restrictions on ordinarily exempted development such as renting a room to be unwarranted in view of housing need. Conditions in my recommendation are amended accordingly.

8.0 Appropriate Assessment

8.1. Introduction

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under Part XAB, section 177U and section 177V of the

Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:

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

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

- 8.2.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.
- 8.2.2. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

8.3. Screening the need for Appropriate Assessment

Background

- 8.3.1. The applicant has submitted a Natura Impact Statement (NIS), and 'Screening for Appropriate Assessment', as part of the planning application. An amended NIS and Screening Report were submitted as part of further information and advertised accordingly. The NIS and ecological baseline studies have been prepared by MKO Consultants with the survey work undertaken by a team of experts as set out in the statement of authority in the introductions. I also refer the Board to the appended report by Meave Flynn BSc. PhD, MCIEEM, Ecologist in An Bord Pleanála who has reviewed the considerably detailed appellant grounds particularly in relation to bats,

the DAU submissions which query the NIS in relation to bat surveys, in addition to reviewing the application documents in relation to bats species.

8.3.2. The AA Screening Report as amended was prepared by reference to current best practice guidance as set out in section 1 of that report. It describes the site characteristics and in accordance with the methodology and in section 3.1 identifies the European Sites with potential pathways to the proposed development in order to establish the zone of influence of the proposal. It concludes that there is potential for likely significant effects. A source-pathway-receiver model was used to identify potential impact pathways linking the project site to the European sites. The potential pathways were restricted to **hydrological and disturbance** on site. The European Sites with potential likely significant effects are;

- the River Shannon SAC and SPA European Sites given the potential for deterioration of water quality primarily through surface water runoff and via wastewater which may have the potential to result in significant effects on the QI, and
- the Newhall and Edenvale Complex SAC and Pouladatig Cave SAC sites given the nature and location of the development site within a potential foraging range of the QI bat species. Accordingly, taking a precautionary approach, the zones of influence relating to these sites cannot be ruled out at screening site.

8.3.3. Having reviewed the documents and submissions on file and noting Dr. Flynn's comments, I am satisfied that the information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

Screening for Appropriate Assessment – Test of likely significant effects

8.3.4. The proposed development is examined in relation to any possible interaction with European sites designated as Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

8.3.5. A description of the development is set out in section 2 of this report and I have also noted the EclA in this regard. In summary, the proposed development involves the development of a housing development in a suburban area with access to services. The application site extends to 2.4 hectares and is described, in terms of habitat, as

consisting mainly of extensive scrub, recolonising bare ground, building and artificial surfaces (old pre-fab and culvert works), immature woodland and some sections resembling oak-ash-hazel woodland. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the main issues considered for examination in terms of implications for likely significant effects on European sites are water quality impacts and disturbance of bat species.

Submissions and Observations

- 8.3.6. The 3rd party observations on the appeal raised issues relevant to European Sites and concerning the inadequacies of the screening assessment process. These are summarised in Table 2 of Dr. Flynn's report in respect of bat species and primarily relate to: survey methodology, known roosts, reliance on pre-construction surveys and absence of derogation licence.
- 8.3.7. In respect of the River Shannon/Fergus sites, the main points in the submissions relate to: no review of baseline data of the Ennis North WWTP which discharges to the River Fergus and no groundwater pollution details
- 8.3.8. DAU: No comments on water quality or potential impacts on River Shannon/River Fergus European sites.

European Sites

The development site is not located in or immediately adjacent to a European site. Section 3 of the applicant's Screening for Appropriate Assessment presents all European Sites that are within 15km of the Proposed Development in tabular and mapped format. In summary the sites are screened accordingly:

- Lower River Shannon SAC 002165 - 840m away. Due to the existence of a substantially culverted stream and following a precautionary approach and potential for deterioration in water quality as result of surface water run-of and via wastewater A list of Qis are identified for further assessment. These are set out in table 3.1 of the report. I concur with screening out of there being any likely effect on Freshwater Pearl Mussel due to its location in the Cloon River and absence of connectivity and I also concur with the screening out of any likely effect on the otter due to the restricted access to the culvert.

- Pouladatig Cave SAC 00037 - 2.4km. Due to the distance and nature of the proposed works there is no potential for terrestrial impact on the Caves habitat . However as the site is within the 2.5km foraging range of the SAC Lesser Horseshoe Bat taking a precautionary approach there is potential for impact on this QI species.
- Ballyallia Lake SAC 000014 - 2.8km away and in a separate sub catchment of the Lower Shannon SAC and so there are no potential hydrological connections to the QI Habitat (natural eutrophic lakes . As there is no pathway, it is not within a likely zone of Impact.
- Toonagh Estate SAC 002247 - 5.6km away . LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact.
- Knockanira House SAC 002318 - 7km away. LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact.
- Dromore Woods and Loughs SAC 000032 - 7km away. No potential for surface water connection due to different subcatchment and while LHB is a QI due to the distance and nature outside the likely zone of impact.
- Old Domestic Buidling (Keevagh) SAC 002010 - 7.2km away. LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact
- Ballycullinan, Old Domestic building SAC 002264 - 9.1km away. LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact.
- Ballycullinan Lake SAC 000016 - 9.2km away. Due to nature and distance no potential for indirect effects on fens habitat not within zone of impact. outside the likely zone of impact
- Old farm buildings, Ballymacrogan SAC 002245 - 9.5km away. LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact.
- Poulmagordon Cave (Quin) SAC 000064 - 9.6km away LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact.
- East Burren Complex SAC 001926 - 10.2km away. Habitats are hard oligo-mesotrophic water and turloughs and a range of flora species (fully listed in AA screening report) but the site is well removed and in a separate sub catchment and outside the likely zone of impact.

- Lough Gash Turlough SAC 000051 - 10.3km away. Habitats are rivers with muddy banks and turloughs but the site is well removed and in a separate sub catchment and outside the likely zone of impact.
- Moyree River System SAC 000057 - 11.6km away . LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact. Habitats are water courses, fens limestone and caves but the site is well removed and in a separate sub catchment and outside the likely zone of impact.
- Old Domestic buildings, Rylan SAC (002314) - 11.8km away. LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact.
- Newgrove House SAC (002157) LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact.
- Ballyogan Lough SAC 000019 - 13km away . Due to distance and nature no potential for indirect effect and outside likely zone of impact.
- River Shannon and River Fergus Estuaries SPA 004077 3.2km away. Due to the potential for indirect effect through the hydrological connection and potential for indirect effect from water quality deterioration and potential of indirect effect on QI habitat for SCI Bird species Wetlands and Waterbirds. Woodland and scrub habitat character of site is not a significant habitat for the QI bird species and direct impact can be screened out. Further assessment is required.
- Ballyallia Lough SPA 004041 3.2km away . No direct hydrological connection and due to habitat no loss of supporting habitat. No potential for significant effects.
- Slieve Aughty Mountain SPA 04168 10.1km due to woodland scrub habitat no loss of supporting habitat. Given nature and scale No potential for disturbance or displacement and therefore no potential for significant effects.
- Corofin Wetlands SPA 004220 11.4km away No hydrological connection and no pathway for indirect effects on QI wetland birds or habitats. Woodlands /scrub habitats does not support these QI and there no potential for disturbance or displacement of these species. No potential for significant effects.

8.3.9. In respect of the European Sites for which the LHB is a qualifying interest, I refer the Board to Dr. Flynn's summary of attributes and targets and summary of potential impacts in her report and her appraisal and reference to screening: 'In the absence

of mitigation, the EclA identified a permanent negative impact on bat species from the proposed development with an effect at a local geographic scale as the habitat type of woodland and scrub is not common around Ennis town.’ This is in consideration of the site location and distances from the Sites at c. 2km, the conservation objectives and target and potential for disturbance within the site with woodland features.

8.3.10. In respect of the Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA and the proximity to the site and the presence of a hydrological pathway established by the drain flowing through the project site to the Estuary, both of the European Sites are within the zone of influence. These sites are presented in the table below together with the potential connection description and details of links to conservation objectives that I have considered for each site.

European Site (Site Code)	Qualifying Interests (QIs) *Denotes a priority habitat Receptors in bold	Distance	Connections (source, pathway, receptor) and effects
Lower River Shannon SAC (002165)	Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] (see maps 5 and 9 for targets) Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	c.840m	Potential to generate contaminated surface run-off during construction and operational phases.

European Site (Site Code)	Qualifying Interests (QIs) *Denotes a priority habitat Receptors in bold	Distance	Connections (source, pathway, receptor) and effects
	<p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Tursiops truncatus (Common Bottlenose Dolphin) [1349]</p>		

European Site (Site Code)	Qualifying Interests (QIs) *Denotes a priority habitat Receptors in bold	Distance	Connections (source, pathway, receptor) and effects
	Lutra lutra (Otter) [1355] (see map 17)		
River Shannon and River Fergus Estuaries SPA (004077)	Cormorant (<i>Phalacrocorax carbo</i>) [A017] Whooper Swan (<i>Cygnus cygnus</i>) [A038] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Wigeon (<i>Anas penelope</i>) [A050] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Scaup (<i>Aythya marila</i>) [A062] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Lapwing (<i>Vanellus vanellus</i>) [A142] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162]	c.3.2km	No supporting habitat for QI bird species. Potential to generate contaminated surface run-off during construction and operational phases. This could impact wetland habitat.

European Site (Site Code)	Qualifying Interests (QIs) *Denotes a priority habitat Receptors in bold	Distance	Connections (source, pathway, receptor) and effects
	Greenshank (Tringa nebularia) [A164] Black-headed Gull (Chroicocephalus ridibundus) [A179] Wetland and Waterbirds [A999] Habitat		

Identification of likely effects

8.3.11. **Assessment of likely Effects:**

Lower River Shannon SAC (site code 002165) and The River Shannon and River Fergus Estuaries SPA (Site Code: 004077)

8.3.12. The applicant's screening assessment has regard to conservation interests and objectives and to the characteristics of both the project site as a habitat and to the foraging needs of the bird species (QI) and states that in addition to there being no direct loss of SAC or SPA habitat, the development site, being more woodland in nature, does not support wetland bird species. The development site is also described as not providing a potential habitat to support otters due to access – I note a very tiny section of the stream is open beside the road adjacent to the nursing home and grounds entrance. Effects relate to discharge of pollutants generated by run-off at the site during construction and operational phases. Surface water discharging from the site to the culverted stream has the potential to be contaminated without mitigation by materials such as hydrocarbons, cement-based material and construction emissions and silt. Wastewater generated by the development has the potential to impact and effect water quality.

8.3.13. Effects are therefore based on the hydrological connection provided by the Stream traversing the site and the fact that the qualifying interests in both Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA are

dependent on good water quality. Given the proximity of the Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA and the presence of a hydrological pathway established by the substantially culverted stream flowing through the project site to the River Fergus and to a much lesser extent due to connection via foul sewer and discharge to the waste water treatment system in Ennis, both of these European Sites are within the zone of influence.

- 8.3.14. Accordingly, in the absence of mitigation there is potential for direct, indirect and cumulative impacts on these Natura sites and their QIs downstream of the stream.

Newhall and Edenvale Complex SAC (site code 002091) and Pouladatig Cave SAC (site code 000037)

- 8.3.15. The applicants screening has regard to conservation interests and objectives and to the characteristics of both the project site as a habitat and to the foraging needs of the LHB (QI) and states that in addition to there being no direct loss of SAC habitats, the site is not within the mapped foraging grounds. Table 1 of Dr. Flynn's report summarises the attributes and target for both sites. Effects relate to foraging habitat decline and fragmentation such as through loss of woodland and foraging ground, impact on connectivity and disturbances from loss of connectivity and light pollution at construction and operational stages. Noise disturbance is also raised in the documentation. Impacts are accordingly based on the potential impact on foraging type habitats for the Lesser Horseshoe Bat species – a qualifying interest of both Newhall and Edenvale Complex SAC and Pouladatig Cave having regard to the distance at less than 2.5km and the potential foraging range for these species and the potential for disturbance at construction and operational stages. In the absence of mitigation, the EclA has identified a permanent negative impact on bat species from the proposed development with an effect at a local geographic scale as the habitat type of woodland and scrub is not common around Ennis town.

- 8.3.16. Accordingly, in the absence of mitigation there is potential for direct, indirect and cumulative impacts on these Natura sites and their QIs.

- 8.3.17. I concur with the applicant's Screening Report in its conclusion that further assessment is required in relation to:

- Lower River Shannon SAC (site code 002165).
- The River Shannon and River Fergus Estuaries SPA (Site Code: 004077)

- Newhall and Edenvale Complex SAC (site code 002091)
- Pouladatig Cave SAC (site code 000037)

Sites that were 'screened out'

8.3.17.1. Having regard to the absence of any likely pathway, the separation distance and nature of the site and proposed development, I am satisfied that no additional sites other than those listed above and assessed in the NIS need to be brought forward for inclusion in the AA.

Mitigation Measures

8.3.18. In this screening exercise, I have not relied upon any measures designed or intended to avoid or reduce any harmful effects of the project on designated European Sites.

AA Screening Conclusion

8.3.19. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually, or in combination with other plans or projects, could have a significant effect on 4 European Sites in view of the Conservation Objectives of those sites and Appropriate Assessment is therefore required for the following sites:

- Lower River Shannon SAC (site code 002165).
- The River Shannon and River Fergus Estuaries SPA (Site Code: 004077)
- Newhall and Edenvale Complex SAC (site code 002091)
- Pouladatig Cave SAC (site code 000037)

8.3.20. I am satisfied the possibility of significant effects on other European sites can be excluded on the basis of objective information.

Stage 2 Appropriate Assessment

8.4. The Natura Impact Statement and associated documents

8.4.1. The application documentation includes an NIS and this was revised as part of further information and takes account of a revised layout. Other relevant documents

include the Ecological Impact Assessment, the Arboricultural Impact Assessment and the Outdoor Lighting Report. The Civil Works Report sets out drainage details. In this context the NIS draws on these reports and examines the potential effects of the proposed development on the integrity of the relevant European Sites below. The applicant's response to the grounds of appeal addresses ecological matters in Appendix 2 of that response and also clarifies matters. The relevant sites are:

- Lower River Shannon SAC (site code 002165).
- The River Shannon and River Fergus Estuaries SPA (Site Code: 004077)
- Newhall and Edenvale Complex SAC (site code 002091)
- Pouladatig Cave SAC (site code 000037)

8.4.1.1. Having regard to the absence of any likely pathway, the separation distance and nature of the site and proposed development, I am satisfied that no additional sites other than those listed above and assessed in the NIS need to be brought forward for inclusion in the AA.

8.5. Assessment of potentially direct and indirect effects on integrity of European sites:

8.5.1. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interests/special conservation interest features of the European Sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures are considered and assessed.

8.5.2. The main aspects of the proposed development that could adversely affect the conservation objectives of the sites are:

- Contaminated water mainly due to surface water run-off effect on Water Quality and impact on habitat and species through pollution during construction and operational phases. Also wastewater discharge from housing to receiving waters via the WWT could impact on habitat and species.
- Disturbance: Due to site clearance and habitat fragmentation, noise and light associated with the development and impact on trees that may be potential roost sites.

8.5.3. **Water quality** (Lower River Shannon SAC (site code 002165) and The River Shannon and River Fergus Estuaries SPA (Site Code: 004077).)

8.5.3.1. The NIS identifies the relevant QIs and associated conservation objectives in section 4. It identifies pollution to surface waters due to household sewage and wastewaters as a threat. Screened in QIs are listed as Sandbanks, mudflats and Sandflats not covered by seawater at low tide, estuaries, reefs, Coastal lagoons, Large shallow inlets and bays, River Lamprey, Common Bottlenose Dolphin, Otter, Brook Lamprey, Sea Lamprey and Salmon,

8.5.3.2. There will be no direct impact on the habitats that are qualifying interests of the sites as the development lies outside the boundaries and the proposal does not provide or propose any access to any part of the designated sites or require resources from same.

8.5.3.3. The potential effects are described as deterioration in water quality and aquatic receptors through pollution generation during construction and operation phases. In the absence of mitigation impact from pollutants such as hydrocarbons, fuel, cement and sedimentation at construction stated are identified.

8.5.3.4. Measures for the protection of the environment and water quality have been incorporated in to the initial site set up phase including site compounds, fuel and material storage area ensuring there is no potential for water quality deterioration, Section 5.2.11 sets out measures in detail under the headings, Site set up, Biosecurity, Disturbance limitation Measures, Pollution prevention, Earthworks, measures to avoid release of cement based materials, 'measures to avoid effect associated with the disposal of wastewater, waste management and environmental monitoring.

8.5.3.5. The disturbance or displacement of species associated with the site does not arise given the distances involved and the nature of the habitat environs of the site. There is very limited opportunity for visiting species by reason access to the culvert as supported by the surveys.

8.5.3.6. Impacts arising via the foul waste is not significant as it is to be removed off-site at construction stage. At operational stage the site is connected to the foul sewer which

connects into the Clonroadmore Wastewater Treatment plant which was upgraded and had a capacity at time of application. I note the appendix 2 of the applicant's response on 5th May 2002 in this regard and the appended letter from Irish Water confirming current and future conditional capacity. Irish Water will regulate access in accordance with capacity at time of connection. It must also act in compliance with licence arrangements.

8.5.3.7. The NIS includes control/mitigation measures for the construction and operational phases designed to mitigate issues related to the potential for run-off or contamination of watercourse and any associated risk to the hydrologically connected European sites. This is part of a wider range of measures to minimise disturbance of species (not of special conservation interest). Notably as part of the surface water management, hydrocarbon filters are proposed to the existing system with the benefit of water protection at operational phase as it is part of a system to prevent pollution of the stream. The attenuation system and its design capacity will also inhibit excess run-off filtering directly to the watercourse.

8.5.4. **Disturbance to Lesser horseshoe Bat Species.** (QI Newhall and Edenvale Complex SAC (site code 002091) and Pouladatig Cave SAC (site code 000037))

8.5.4.1. Section 5.2.2 of the NIS identifies effects on the LHB species at construction and operational stages. The NIS refers to the supporting specialist reports such as the ECIA, the AIA, the outdoor lighting plan and the landscape plan. In the applicant response, on page 2 of Appendix 2 - ecological response to 3rd party appeals briefing note, mitigation for potential adverse impacts on bats include vegetation retention, and replanting to maintain landscape connectivity for foraging and commuting bats, a sensitive lighting design, pre-construction surveys and that the lighting is in accordance with Bat Conservation Ireland guidance 2010 and Dark sky Ireland and the Bat Conservation Trust UK 2018

8.5.4.2. Tables 6.17 and 6.18 of the NIS set out the target for respective sites and how the proposal with mitigation does not compromise those targets.

- 8.5.4.3. There will be no decline in auxiliary roost for either site having regard to the location and the survey results. However as a precaution preconstruction surveys will be carried out and a derogation license will be sought as required.
- 8.5.4.4. There will be no significant decline in forage habitat within 2.5km of these sites due to the site not being in the mapped foraging grounds. While there will be some loss of vegetation of key linear features are retained and supplemented with landscaping in accordance with the plan in Appendix IV.
- 8.5.4.5. Measures in relation to minimising disturbance due to light spill and construction activities will ensure disturbance is not significant and this is reasonable having regard to the context – the site being already surrounded by housing and activity in a suburban context.
- 8.5.4.6. I further note Dr Flynn's summary review on Table 3 and that conservation objectives to maintain favourable consideration of LHB will not be undermined by the proposed development and that there will be no adverse effects.
- 8.5.4.7. In view of the foregoing, I consider the mitigation measures proposed are sufficient to ensure that impacts regarding water quality and disturbance to LHB are reduced to an imperceptible level. On this basis the proposed development will not prevent any of the qualifying interests from achieving or maintaining the conservation objectives listed.
- 8.5.4.8. Cumulative effects may arise in-combination with other plans and projects in the vicinity. The NIS has reviewed other developments in the area at the time of application. These surrounding development sites are on zoned lands and rely on connection to municipal infrastructure in terms of surface water drainage and sewerage. I further note the assessment of the proposal in the context of the county plans. Subject to adherence with the mitigation measures outlined, I consider that the proposal will not give rise to in-combination adverse effects with other plans and projects.
- 8.5.4.9. I am satisfied that it has been demonstrated based on the information in the submitted Natura Impact Statement that with implementation of mitigation measures

included in the supporting reports (EclA , AIA Lighting Report and Landscape Plan) that the proposed development, individually or in combination with other plans and projects would not adversely affect the above mentioned European Sites.

8.5.5. Appropriate Assessment Conclusions

8.5.5.1. The proposed development has been considered in light of the assessment requirements of Section 177U and 177V of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate Assessment of the proposed development, it was concluded that it would be likely to have a significant effect on Lower River Shannon SAC (site code 002165), The River Shannon and River Fergus Estuaries SPA (Site Code: 004077), Newhall and Edenvale Complex SAC (site code 002091) and Pouladatig Cave SAC (site code 000037)

8.5.5.2. Consequently , as Appropriate Assessment was required of the implications of the project on the qualifying interests/special conservation interest of those sites in light of their conservation objectives.

8.5.5.3. I am satisfied that an examination of the potential impacts has been analysed and evaluated using the best scientific knowledge. Where potential significant effects on European Sites have been identified, key design features and mitigation measures have been prescribed and incorporated into the development to remove risks to the integrity of the Sites. While I note some disorder in the presentation of the NIS report such as the omission of page numbers 39 and 40 and mix up in ordering of some pages, I note that the other supporting documents EclA, AIA and Lighting Plan provides comprehensive details on mitigation measures for bats among other details and that they are referred to in the NIS and also have been reviewed by Dr. Flynn.

8.5.5.4. Therefore, following an Appropriate assessment it has been ascertained that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of the European sites Lower River Shannon SAC (site code 002165), The River Shannon and River Fergus Estuaries SPA (Site Code: 004077) , Newhall and Edenvale Complex SAC (site code 002091) and Pouladatig Cave SAC (site code 000037) in view of their Conservation Objectives.

8.5.5.5. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

9.0 Recommendation

On the basis of the above planning assessment, and Appropriate Assessment, I recommend that permission should be granted for the proposed development in accordance with the recommended order below and the reasons and considerations contained therein.

10.0 Reasons and Considerations

Having regard to the policies and objectives of the Clare County Development Plan 2023-2029 in respect of both urban ecology and housing provision and the site specific objective (SR9), the Government publication, Rebuilding Ireland – Action Plan on Housing and Homelessness (2016), the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018) and the National Planning Framework (2018), both issued by the Department of Housing, Planning and Local Government, according to which new residential development should be increased in density and directed into locations within the existing built up serviced areas and having regard to the building pattern in the area and the scale and design of the proposal which includes heights of three storey and incorporates retention of linear features for foraging bat species as part of a range of mitigation measures, it is considered that, subject to compliance with the conditions set out below, that the provision of housing development at this location is justified and would not seriously injure the visual or residential amenities of the area, would not result in a significant loss of bat foraging area and that the proposed development and would be acceptable in terms of quantum of development, potential for permeability, traffic safety, flood risk and ecology. The proposed development would, therefore, be in accordance with the provisions of the current County Development Plan and the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further information received by the Planning authority on 23rd 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 or as stipulated and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. The proposed scheme shall be amended and shall incorporate:
 - a) Revision of the site layout so that house nos. 11, 12 and 13 (west facing) in the Site Layout Plan submitted as further information on 23rd December 2021 revert to a north south orientation as shown for house nos.12-23 in the Site layout Plan submitted on 10th June 2021 so as to reduce window frontage and activity along a narrow point of the walkway along the western boundary.
 - b) Replacement of Boundary Wall Type C with Wall Type B as indicated in the submitted drawings
 - c) Shared boundaries of a height of 2m with Woodlands Estate, Cahercalla Drive and nos. 33 and 34 Willsgrove . These boundaries shall ensure that existing root systems of trees to be retained are adequately protected. The external wall onto Cahercalla Drive shall be faced with natural stone and were required stone wall adequately strengthened.
 - d) Bin storage facilities for each of the ground floor apartments
 - e) Details of location of electric car charging points in common areas that provide for safe and orderly charging.

Drawings showing the revised plan and elevations, consequent modification to open space with augmented landscaping and boundary treatment shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: To control light spill in the evening along a potential linear foraging corridor for bats and in the interest of visual and residential amenity.

3. 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 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

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.

4. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health

5. 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. Prior to commencement of development the following details shall be submitted for the prior written agreement of the planning authority:
 - a) An assessment of impact on the attenuation tanks in the event of flooding downstream of the site from the proposed outfall location and modifications if required, to address any issues. The applicant shall submit calculations demonstrating that the required attenuation volumes remain available in the culvert in the event of a 1 in a 100 year flood event downstream of the site.
 - b) Incorporation of SuDs in the hard landscaping areas.

- c) Details of interception for any permeable paving and treatment including accompanying description and calculations to demonstrate that the entire site complies with the requirements of GDSDS or other specification acceptable to the planning authority.
- d) Demonstration of protection of attenuation tanks from root spread.
- e) A revised surface water drainage layout and associated particulars which include appropriately sized and located hydrocarbon interceptors.

Upon completion of the surface water drainage works the applicant shall submit certification from an appropriately qualified professional that the proposed surface water system has been installed as per the permitted drawings and particulars and as per the manufacturer's instructions. This certification shall outline the ongoing maintenance requirements for the surface water drainage system, and the maintenance record of the system shall be available to the planning authority on request.

Reason: To prevent flooding and in the interest of public health

- 6. The finished floor levels of the dwelling houses shall be in accordance with those indicated on the submitted site Layout plans and shall not be modified without prior written agreement of the planning authority prior to construction.

Reason: In the interest of orderly development.

- 7. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall incorporate the mitigation measures outlined in the submitted documentation and shall be implemented as part of the development. In this regard the following shall apply:
 - (a) Following a pre-construction survey by a competent ecologist, any envisaged destruction of structures or felling of trees that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.
 - (b) The removal of the mature trees will be undertaken in line with industry best practice: Guidelines for the treatment of Bats during the construction of

national road schemes (TII) and) Bat Mitigation Guidelines (NPWS, Irish Wildlife Manual 134 (2022)).

- (c) The lighting plan shall be modified in accordance with the prevailing best practice at the time of lodgement of final details with the Planning authority for written agreement. The public lighting shall be provided in accordance with a final scheme to reflect the details in submitted EclA and NIS and in the Outdoor Lighting Report and Best Practice, (regard shall be had to the latest guidance pursuant to Government of Ireland publication Lesser Horseshoe Bat Species Action Plan 2022-2026), details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development or installation of lighting. Such lighting shall be provided prior to the making available for occupation of any dwellings. An assessment of the lighting regime after installation shall be undertaken by a suitably qualified lighting expert and ecologist to ensure that the specification has been achieved and amended accordingly in the event of any unforeseen straying from the regime and in line with the recommendations included in the Bats and Lighting report by Bat Conservation Ireland.

Reason: In the interest of protection bat species.

8. The removal of the mature trees will be undertaken in line with industry best practice: Guidelines for the treatment of Bats during the construction of national road schemes (TII) and) Bat Mitigation Guidelines (NPWS, Irish Wildlife Manual 134 (2022)).

Reason: To minimise disturbance of the Lesser Horseshoe Bat species.

9. All planting and associated works and specifically boundary planting along the western boundary as amended by the revised site layout shall be carried out in accordance with the mitigation measures contained within the Ecological Impact Assessment the NIS, Landscape Plan and supporting documentation. Planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is

taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. All landscaping shall be completed prior to occupancy of dwellings.

Reason: to minimise disturbance of the Lesser Horseshoe Bat species and to protect potential bat foraging habitat and in the interest of residential amenity.

10. Details including samples of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

11. The internal road network serving the proposed development, including turning bays, junctions, raised tables, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

12. 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.

Reason: In the interest of pedestrian and traffic safety

13. 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.

Reason: In the interest of visual amenity and orderly development.

14. The in-curtilage car parking spaces serving the dwelling house shall be provided with electric connections to the exterior of the house to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interest of sustainable transportation.

15. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall incorporate the mitigation measures; to avoid pollution of the culverted stream traversing the site and groundwater; to protect bat species and protect the ecological integrity of the site as contained in the EclA , NIS as amended and supporting documentation and shall provide details of intended construction practice for the development, including, hours of operation, noise , dust and light spill management measures, location of the site compound/bunded areas and fuel storage, procedures for managing disposal of construction/demolition waste and a construction stage traffic management plan which shall ensure traffic from the proposed development shall use the L-4256 Drumbiggle Road from the N85-R474 (Circular Road) or from the R-458 Carmody Street only. All measures shall be implemented in full.

Reason: In the interest of environmental protection and to protect the amenities of the area.

16. Site development and building works shall be carried out in accordance with the agreed CEMP and 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

17. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the “Recommendations for Site Development Works for Housing Areas” issued by the Department of the Environment and Local Government in November 1998 and the Planning Authority’s Taking in Charge Policy. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

18. **Reason:** To ensure that the development is carried out and completed to an acceptable standard of construction.

19. Proposals for an estate/street name, house 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).

Reason: In the interest of urban legibility

20. (a) The developer shall engage a suitably qualified Archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping and groundworks associated with the development. The use of appropriate machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. No sub-surface works shall be carried out in the absence of the Archaeologist without his/her express consent.

(b) Should archaeological remains be identified during the course of archaeological monitoring all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the Department of Housing Local Government and Heritage (National Monuments Service) regarding appropriate mitigation such as preservation in-situ and/ or excavation. The developer shall facilitate the archaeologist in recording any remains identified.

(c) Any further archaeological mitigation requirements specified by the planning authority following consultation with the Department shall be complied with by the developer.

(d) Following the completion of all archaeological monitoring, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required.

All resulting and associated archaeological costs shall be borne by the development.

Reason: to ensure the continued preservation (either in situ or be record) of places, cave, sites, features or other objects of archaeological interest.

21. 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.

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.

22. 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 landscaping commitments 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.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

23. 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.

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.

Suzanne Kehely

Senior Planning Inspector

22nd August 2023