



An
Bord
Pleanála

Inspector's Report

313263-22

Development	13 houses, site development works, public service, public lighting and landscaping including pedestrian access (footbridge) to Gort Leamhan housing estate.
Location	Knockanean, Ennis, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	21512
Applicant(s)	Padraig Howard
Type of Application	Permission
Planning Authority Decision	Grant Permission with conditions
Type of Appeal	Third Party
Appellant(s)	John and Marianne Keane
Observer(s)	None
Date of Site Inspection	30 th December 2022.
Inspector	Suzanne Kehely

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The site of 1.932 hectares is located within the development boundary of Ennis on eastern outskirts c. 3.5km from the Town Centre. Some site development works have been carried in respect of site infrastructure such as roads and services in otherwise fallow ground. The site has frontage onto a local rural road (Knockanean Road – L4611) to the south (no footpaths or lighting) and is close to a housing development to the west from which there is a footpath network to the town centre and neighbourhood environs .
- 1.2. The site is irregular in shape being predominantly deep and narrow with an extended road frontage strip to the south and an extended strip to the north where the site extends across a river channel (EPA reference Spancelhill 010 which flows to the River Fergus) and up to the cul-sac road carriageway as part of the Gort Leamhan housing estate which is accessed off the Millbank Road to the west. The site is adjoined along part of the western boundary by a mature detached dwelling (well set back from the road) and to the east there is a row of one-off houses. The surrounding lands which are substantially greenfield are part of the Gaurus flood plain. There is a quarry to the south of the site . The land is low lying and described by the planning authority as being subject to sporadic flooding.
- 1.3. The site is part of the Roslevan neighbourhood which is characterised by low density housing with dispersed facilities. The nearest shop to the site is in the petrol station on the R352 to the north and there is community Hall/Church (Fahy Hall) in Millbank Road. A small shopping centre (pharmacy among other services) is also on the Tulla Road nearer the town at a distance of c1.3km from both ends of the site.

2.0 Proposed Development

- 2.1. Permission is sought to construct 13 detached dwelling houses (11 two-storey and 2 single storey) in a low-density scheme on lands where development has commenced in relation to services and infrastructure as permitted under PA ref P06-2109 and as extended by the decision under PA ref. P11-21073. A planning report accompanies the application addressing issues raised under a previous application that was subsequently withdrawn: issues relate to lack of pedestrian connectivity, sightlines,

infill and site works, extent of drainage work, footpath and road layout, wayleave issues and housing layout re building lines, heights and overlooking etc.

2.2. The application also includes:

- Natura Impact Statement
- Flood Risk Assessment which is based on site specific FRA and shows the footprint of the residential development to be within the Low Flood Risk Zone C lands and suitable for development in accordance with the Flood Risk Management Guidelines.
- Lighting report as per Natura study - all lights to be fitted with hoods to prevent horizontal and vertical light spill also fitted with control management system to dim light to 25% in absence of activity.
- Construction Environment Management Plan - updated Sep 2021
- Part V details
- Ecological Impact Assessment
- Landscaping report
- Bat survey- September 2021

Note: some of these special reports are appended to the NIS and Ecological report and are essentially the same (Lighting , FRA, engineering details)

2.3. In modified plans in response to a request for further information the following amendments were made:

- **Houses nos. 10 and 11** were re-oriented/revised in addition to removal of 20m hedgerow and revised boundary treatment to address passive surveillance. (Sep. 21 and Jan. 2022)
- **Bridge details** - intended to be taken in charge – detailed drawings attached in FI DC18 and DC19 and Drawing 3 shows revised landscaping. Maintenance schedule and materials are appended.
- **Lighting** – informed by Bat conservation guidelines - low level can be provided.
- **Landscaping** maintained and enhanced along walkway to create an established wildlife corridor. Trees to be removed on western side as per drawing detail.
- **Sightlines** of 90m are provided at 2.4m setback - Drawing DC19. Consent confirmed with application as stated in Sep. 2021 FI.

- **Pedestrian safety** - Drawing Dc15 shows 2 pedestrian crossings as well as lane reduction. The footbridge and walkway are a commitment to pedestrian and cycleway infrastructure. The proposed public road footpath along a road that is currently used by pedestrians will contribute to the safety of the road by enhancing the pedestrian infrastructure in the area.
- **Levels:** Drawings 15 and 16 show contiguous elevations and levels at entrance.
- **Home zones** are reflected in material and finishes DC 18 surface treatment plan.
- **Boundaries:** Drawing 16 shows boundary treatment and limestone is proposed as a material. North ern boundary of no. 7 and southern boundary of nos.1 and 2 and southern boundary of site along with planting. Otherwise block wall construction along rear boundaries and between properties.
- Drawing DC14 and 14a provide details for 2 no. house types and revised layout.
- Stormwater attenuation designed in accordance with SuDS and with greenfield run-off rate for 1:100 year event and 5% increase of climate change.
- Stormwater discharge update in Sept 21
- **CEMP** updated in FI (Sep 2021) to include details
 - in section 3.8 a in relation footbridge which was substantially complete in terms of levels but has become overgrown.
 - French drains (section 3.2a partially constructed but not connected or completed it is proposed to dig down and find and complete these drains and fit with interceptors and silt trap. A silt buster to temporary bunded area for further filtration is proposed.
- Section 50 consent to be sought for footbridge from OPW post planning permission.

3.0 Planning Authority Decision

3.1. Decision

Following satisfactory submission of further information and subsequent clarification of further information on 21st January 2022, the planning authority issued notification

of its decision by order on 16th March 2022 to grant permission subject to 30 conditions.

C1 standard compliance

C2 Part V

C3 Occupancy restriction By S.47 agreement.

C4 S.48 Contribution (80,697)

C5 Cash security.

C6 Bridge construction details and phasing - Prior to commencement of dwellings.

C7 Construction methods and environmental mitigation.

C8 Public Footpath (21/1/2022 Details) and Lighting (24/5/21 Details) and grass verge provision.

C9 Boundary detail within development.

C10 Tree Survey.

C11 CEMP.

C12/ C13 Stormwater/Surface Water.

C14 Street name.

C15 Landscape plantation.

C16 Site development standards.

C17 Open space .

C18 Materials and finishes.

C19 Lighting specification.

C20 Road Surface - Survey Spec.

C21 Traffic manamgnet plan

C22 Infrastructure in site.

C23 Footpath design.

C24 No development over services.

C25 Post construction details to be submitted.

C26 No commercial overnight guest accommodation.

C27 Finished Floor Level as per submitted details.

C28 Foul sewer connection / discharge.

C29 Undergrounding of services.

C30 Construction hours: 8-6 Mon-Fri and 8-1 on Saturdays.

3.2. Planning Authority Reports

3.2.1. Further information sought on 15//7/2021 and subsequent revised notices sought on 15th September 2021. Details related to:

- Flood Risk : there is a finger of land in flood risk zone B where the PA require that the volumetric storage is maintained and that there are no negative impacts. The impact of coastal flooding needs addressing confirmation of completion of flood storage work (for case 99/232) in nearby lands under applicant's ownership.
- Surface water detailing regarding discharge to adjacent wetlands, French Drain details and final outfall arrangements, SUDs details.
- CEMP clarification that the CEMP has had regard to French drains to the east and taken account of footbridge.
- Footbridge details/consent/ layout/ landscaping/lighting
- Sightline details requiring 90m in each direction and written consent where required.
- Footpath provision along the public road notwithstanding the footbridge connection as it is considered a pedestrian hazard.
- Boundary treatment
- House design taking account off semi-rural location and assimilation with landscape.
- Bat survey in April but should be May-September for LHB and loss of hedgerow along west. Replacement hedgerow necessary
- Wastewater – pre-connection agreement and p provision of a spur for future connection of adjacent development
- Cross sections through site
- Consent to underground electricity power lines traversing site.

3.2.2. The planning authority sought clarification of further information in respect of :

- Passive surveillance over pedestrian bridge. A dual aspect was suggested and houses have been re-oriented to the satisfaction of the PA subject to details conditions relating to materials and finishes.
- Sightlines of 90m form a 2.4m setback and at height of 1.1m. Adequate sightlines at entrance not clearly demonstrated It is noted that sightlines >120m as indicated in FI drawings area not evident on ground.

3.2.3. The issues have been addressed to the satisfaction of the planning authority and sightlines of 90m are considered acceptable having regard to the rural character with 5m width and pinch point and operational capacity and also having regard to the provision for connectivity for cyclists and pedestrians via the proposed bridge. It is considered that outstanding matters could be addressed by condition and the following shall be complied with prior to commencement of any dwelling units.

- A section 50 OPW approval for the proposed bridge shall be obtained.
- Roadside boundary and entrance shall be constructed
- Installation of the proposed lighting scheme along the Knockanean Road as per plans.
- Construction of a roadside boundary and entrance

3.2.4. Other Technical Reports

Road Design Office: 160m sightlines from a 2.4m setback required in accordance with DN-GEO-03060 Geometric Design of Junctions (priority junctions, direct access, roundabouts, grade separated and compact grade separated junctions) for the proposed entrance off the L411 which is described as being narrow and busy.

Estate Team: (22/9/21) concerns about: permeable paving and maintenance, relocation of attenuation tank to a more central position in open space and need for adequate cover is raised refers to need for mobility impaired access. Consent for Section 50 permit should be prior to granting of permission.

Partial completion of drainage works noted P99/232 – this should be completed.

Road Design: 5/11/21 sightlines of 120m need to be established. Drawing 04c showing >120m stopping sight distance was not evident on-site inspection. Based on design speed of 80kph, 160m is needed.

This stretch of road is narrow and busy at peak times stopping sight distance should be fully proven to be achievable before consideration of a grant of permission.

3.3. **Prescribed Bodies**

Irish water: In correspondence to the applicant dated July 2021 it is confirmed that connection to water services and wastewater are feasible without infrastructure upgrade by Irish Water and there is capacity in both the Ennis Water Treatment Plant and Ennis Wastewater Treatment Plant . It is noted that this is via a privately owned sewer in In Gort Leamhan housing development which connects to the public sewer in Millbank.

DAU Nature Conservation (26-3-21) – cited in Planning report. The status of the landfill in the wetland habitat is queried in addition to the proximity of the site to sites of conservation interest. The PA is advised to consult the NPWS website in respect of the Lower River Shannon SAC in carrying out its own screening The conservation objectives for a number of Annex I habitats and Annex II species are flagged. In relation Bats, the proximity of sites of interest is highlight in addition to concerns about removal of hedgerow where bat activity has been recorded. The timing of the survey is also flagged as being outside the recommended period.

DAU: Archaeology: No objection subject to conditions. Archaeological test excavation and conditions recommended due to scale of site.

3.4. **Third Party Observations**

Issues as raised in grounds of appeal.

4.0 **Planning History**

- PA ref P04 21129 Outline Permission for 16 houses and associate works
- PA ref 0621019 Permission consequent on outline permission for 12 houses

- PA ref P08 21134 revisions to permission for 12 houses. Refused on appeal (PL 58.232004)

Having regard to the location of the development, immediately adjoining the public road at the entrance to the overall housing development, to the modest extent of the site, to the planning history of the lands and to the existing pattern of development in the vicinity, which includes detached dwellings on substantial sites well set back from the public road, it is considered that two houses would constitute an inappropriate form of development at this location, be unduly obtrusive, detract from the amenity of the area and be contrary to the proper planning and sustainable development of the area.

- PA ref P11 21073 Permission extension of appropriate period ref P06 19 until 17/2/2015.
- PA ref P16 743 Withdrawn application for 13 house and completion of access road site development works and public service connections substantially completed.
- Nearby sites
- An Bord Pleanála ref. 309568 permission (2022) for 22 houses in a low-density development in a site accessed off Millbank Road via Gort Leamhan. The site is c. 2.5km from the town centre.

5.0 Policy Context

5.1. Development Plan

General

- 5.1.1. Permeability and connectivity is recognised as a key priority area in creating successful urban places in line with the urban Design Manual (2009) This is elaborated on in page 421.
- 5.1.2. CDP11.2 Smarter Travel - To support and facilitate:
- Sustainable, multi-modal and integrated travel in County Clare, reduced car dependence and achievement of the National Smarter Travel Targets

- Steady State Investment to maintain and upgrade the existing road, rail and bus networks to provide a quality service to transport users.
- Initiatives under the Department of Transport to reduce congestion in urban areas primarily by enhancing sustainable travel options through Smarter Travel projects that include traffic management, bus priority, urban cycling and urban walking routes;
- The delivery of a comprehensive cycling and walking network with an emphasis on Ennis and the Limerick-Shannon Metropolitan Area;

To adopt sustainable planning strategies through integrating land use and transportation and by facilitating mixed use developments as a means of supporting national targets of climate policy mitigation and adaptation objectives, and reducing our carbon footprint and greenhouse gas emissions

5.1.3. CDP11.5 Walking and Cycling: It is an objective of Clare County Council: a) To require walkability and accessibility to be a central consideration in the planning and design of all new developments, transport infrastructure and public transport services;

5.1.4. Section 18.3.1 (vol 1) refers a goal to prioritise walking cycling and public transport and efficient use of land and minimising transport demand while also protecting the built and natural environment.

- Sustainable Mobility: Permeability and accessibility will be encouraged within developments to reduce car dependence and to promote active travel. Where appropriate integration with adjacent lands is possible through the provision of vehicular, pedestrian and cycle way opportunities, this should be proposed within a development. Development proposals for housing developments comprising 10 units or more shall be accompanied by a Transport and Mobility Statement outlining how convenient pedestrian and cyclist connectivity to the surrounding community has been integrated into the design and layout of the proposed development. Issues such as the provision for bus access (e.g. safe school bus pick up/drop off area) should also be addressed in the statement. (page 462 Vol.1)

Ennis Municipal District Plan

- 5.1.5. The site is in Roslevan Neighbourhood (vol 3a) and in the map for this neighbourhood on page 52 of vol 3a most of the site is zoned low density residential. A small part of the site in the northwest is zoned as open space and the strips of ground to the north and south are zoned as buffer space. Section 2.3.2 refers to the aims for new housing in this area and focus on the existing availability of services and infrastructure and consolidating development in an appropriate manner.
- 5.1.6. The site is in Flood Zone B in the Map for Ennis in the Clare County Development Plan 2023-2029 . Development on Existing Residential zoned lands within Flood Zone A and B must be limited to minor development as set out in Section 5.28 of the Planning System and Flood Risk Management Guidelines (2009).
- 5.1.7. Section 1.9.1 sets out strategic aims for travel and mobility including a 10minute town model and to ensure pedestrian permeability and priorities walking as the preferred mode of transport in the settlement area particularly in Ennis town centre and to support and facilitate improvements e.g. Delivery of Ennis local bus service public transport.
- 5.1.8. Site specific objective in Volume 3a
- LDR12 Knockanean This land is zoned for Low Density Development and has the benefit of a live planning permission. A construction environmental management plan (CEMP) must be prepared as part of any future planning application on this site detailing how surface water run-off, especially in relation to release of silt and other pollutants, will be controlled during construction stage. Surface water run-off from development on this site must be treated via a combination of appropriate SUDS (i.e. green roofs, permeable paving, petrol interceptor, silt trap) prior to discharge to any surface water features including the Gaurus River. Any future development proposals for this site must be accompanied by a site-specific Flood Risk Assessment to consider surface water management and discharge, (whether this is to the Gaurus River directly or into a surface water system) particularly during (but not limited to) flood events.
 - V3(a)9 It is an objective of Clare County Council: a) To continue to work with the Department of Education and Skills, the Limerick Clare Education and

Training Board and other agencies in meeting future educational requirements of the Ennis and environs area on land zoned for community and identified for schools; and b) To support infrastructural upgrades including road improvement schemes that facilitate pedestrian and cyclist commutes to schools. This is of particular relevance to Knockanean school.

5.2. **National Planning Guidelines**

5.3. **Project Ireland 2040 – supports National Planning Framework (February 2018) :**

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.

5.4. **Rebuilding Ireland – Action Plan on Housing and Homelessness 2016:** This is a government initiative which identifies the critical need for accelerating housing supply.

5.5. **Housing for All (Government policy 2021):** identifies increasing housing supply as a critical action. It aims for a properly functioning housing sector and is inherently dependant on critical infrastructure including transport, utilities and communications all accompanying housing as supported by the targets of both the NPF and the Climate Action Plan.

5.6. **Climate Action Plan 2023** refers to the key challenging issue of dispersed residential settlements and peripheral developments rather than focusing on central areas and over reliance on the private car.

5.7. **National Sustainability Mobility Policy 2022** sets out a framework for active travel and public transport to meet climate targets and alternatives to the private car. It is based on an Avoid -Shift -Improve model.

5.8. **Southern Regional Assembly, 10 Minute Town Framework and Methodology (July 2020) :** This commission study forms part of the Regional Action Plan for Interreg Europe MATCH-UP project. It identifies infrastructural needs through assessing 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 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.

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

5.9.1. 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."

5.9.2. 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.

5.10. **Section 28 Ministerial Guideline**

5.10.1. **Sustainable and Compact Settlements (January 2024):** This guidance advocates compact development in central serviced locations . In respect of towns outside the metropolitan area of a city, table 3.5 Density for key towns and large towns sets a policy objective density of 40-100dph in centres and urban neighbourhoods and 30-50 dph in suburban /urban extension locations. A key element in urban expansion is:

- Sustainable and efficient movement : Ensuring places are well connected and accessible by sustainable modes. Also acknowledging that quality of journey is

equally important and that places are perceived as safe and are not dominated cars.

5.10.2. **Planning System and Flood Risk Management Guidelines (2009).**

5.10.3. **Design Manual for Urban Roads and Streets (2013).** This design guide promotes permeability and connectivity in housing layout, both new and retrospectively, in order to address car dependency through design. It advocates:

- connectivity between destinations to promote higher levels of permeability and legibility for all users, in particular more sustainable forms of transport. This will allow people to move from place to place in a direct manner with greater route choice. In general, greater levels of connectivity are required between significant destinations, particularly those generating or attracting large volumes of traffic.
- retrofitting while problematic ... Smarter Travel (2009) recognises that sustainable travel can be supported through retrofitting of a permeable network to increase connectivity levels and requires that local authorities prepare plans to retrofit areas in order to create more sustainable neighbourhoods. The dendritic nature of some of these street patterns often means that connection opportunities are very limited.

5.10.4. **Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)** – section 2.1 -2.4 advocate a plan-led and sequential approach to zoning of land for housing development. Connectivity via non car based means is a core design principle as part of a consolidated approach around existing serviced urban centres. These have been revoked (January 2024)

5.10.5. **Other:**

Lesser Horseshoe Bat Species Action Plan 2022-2026, Government of Ireland and Vincent Wildlife Trust : 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. Natural Heritage Designations

- Lower River Shannon SAC (site code 002165) c. 300m away.
- The River Shannon and River Fergus Estuaries SPA (Site Code: 004077) - approximately 4.2km away.

Refer to section 8 for full list within 15km catchment.

5.12. EIA Screening

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

5.13.1. An Environmental Impact Assessment Screening report was not submitted with the application. Under the provision of Planning and Development Regulations 2001 (as amended), mandatory EIA is required for the following types of development within Class (10)(b) of Schedule 5 Part 2:

- (a) Construction of more than 500 dwelling units,
- (b) 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.)

5.13.2. In this case, it is proposed to construct 13 dwellings which is considerably below the threshold of 500 dwelling units noted above. The site has an overall area of just under 2 ha in a semi-rural area and not within in a business district. The site area is therefore well below both thresholds of 10 ha and 20 ha.. The site has been subject to site development works associated with infrastructure provision such as a roadway and services but is otherwise undeveloped and comprises extensive bare earth and scrub habitats with pockets of hedges and grass among other habitat fragments as described in the NIS and associated documentation. With respect to earth works and drainage capacity the site being in the Gaurus Flood plain has been

subject to a Flood Risk Assessment which rules out any likely significant flood risk of the site or surrounding lands. The parameters for development of the site are set down in the site specific objective LDR12 which addresses drainage issues which have accordingly been complied with. The site is in proximity to low density housing but with buffering lands.

5.13.3. The DAU has flagged the proximity of significant sites of interest in the wider area in relation to the Lesser horseshoe Bat species and this has been addressed through survey work and further landscaping details. I am satisfied having regard to scale of development and site characteristics that these requirements have been substantially met in the submitted documents and assessment by the planning authority.

5.13.4. I further note that the site is not designated for the protection of the landscape or for its natural or cultural heritage, nor is the proposed development likely to have any significant effect on any European Site (as discussed below in the AA section). There is hydrological connection to sensitive sites due to the watercourse to the northwest of the site where footbridge works are proposed. This is not likely to give rise to a significant impact on nearby water courses (whether linked to any European site/or other) as also addressed in the AA section below.

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

5.13.6. The issues relating to wider sustainable land use and transport and accessibility, while having potential indirect impacts on the environment at a strategic level, are more appropriately addressed in the wider context of proper planning and sustainable development rather within the provisions for EIA.

5.13.7. 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 LRD12 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 designated development area, which has access to water and drainage 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

- Principle of housing is unacceptable given the flood plain location, inaccessible nature and zoning to the northwest. Reference is made to the de-zoning in the draft 2023 development plan.

- The proposed development will create a traffic hazard. No consent to provide the required visibility splay and sightlines at the entrance onto the L6-411

6.2. Applicant Response

The applicant submitted a detailed response based on the following matters:

- Site location is appropriate for development in context of history, surrounding housing development and connectivity to school services, amenities, and town centre.
- There will be a footpath and lighting along the local road in addition to the pedestrian footbridge to across the river to the northwest providing more direct access to the neighbourhood facilities.
- There are adequate sightlines having regard to:
 - The speed limit of 50kph as confirmed by the RDO report which acknowledges an error in the report on file.
 - The visibility is illustrated in photographs.
 - The relocation of the previously permitted entrance in a westward direction has the consequence of less reliance on third parties.
 - The obstruction by trees and hedges of the public road is a matter of enforcement under the Roads Act.
- Planning gain by provision of footpath and lighting in addition to completing development on site.
- The housing development is supported by national, regional and local policy objectives in terms of using existing and planned infrastructure . Specific objectives for the site expressly permits housing.
- The site is brownfield in nature and the low-density scheme blends with the rural environment.
- The site-specific flood risk assessment excludes the site from significant risk due to the area being in Flood Risk Zone C which is in part due to the rising of the ground to 4.5/5m O'D. The finished floor levels will have sufficient freeboard. No part of the site will present a significant flood risk.

6.3. Planning Authority Response

No further comments

6.4. Observations

None

6.5. Further Responses

6.5.1. The appellant submitted a counter response:

- The principle of development is not acceptable on basis of flood risk, ecological impact, peripheral location and zoning.
- Flooding: the site was infilled around 12 years ago without the benefit of a flood risk assessment and the loss of flood storage capacity has not been considered in the recent assessments
- Loss of reed bed habitat already encroached upon by the infill. With be further fragmented by the pedestrian link.
- 160m sightlines should be provided having regard to :
 - The legitimacy of 50kph speed limit being in question. While acknowledging road signs it is submitted that by reference to other engineering reports in planning applications relating to the same road (e.g. ref 19/961- the national school) that 50km/h is a temporary limit during road construction works. (RDO report cited – ‘while there are 50km/h speed limit signs installed either side of the school the current legal speed limit for this stretch of road is 80km/h. Sight distances of 160m are required for junction/direct access on to a road with an 80km/h speed limit.’
 - Majority of school traffic from Roslevan side of Ennis.
 - The Roads Act 1993 is irrelevant to the matters under consideration.

- 70m sightlines cannot even be provided. The speed survey by Declan Noonan and Associates is questioned – the conclusion that the actual design speed is slightly higher than the 50km/h speed and speed is constrained by the road alignment is unsatisfactory in the absence of data. Accordingly it is submitted that:
 - The junction design is based on unrealistic parameters and constitutes a traffic risk.
 - The L4611 is not a typical local road as there is large primary school.
 - The incomplete cycle/pathway constitutes a risk and not a gain.
 - Partial lighting and footpaths are not a significant enhancement.
- Existing links using the L4106 and the L4611 are seriously substandard and unsafe for either walking or cycling notwithstanding development plan objectives . This is supported by the RDO comment that the county council is not anticipating available funding for such road improvements. The Municipal District Office engineer's report in (reg ref 19-961) the school case states that school development would have to be subject to road improvements and there may be issues of land acquisition and funding of these works.
- The progress of the Special Development Contribution of €50.000 towards upgrading of the L4611 for walking and cycling as not yet been provided in respect of the school expansion. There is no evidence of change in the future. The subject development has not been subject to any such Special Development Contribution.

7.0 Assessment

7.1. Issues

- 7.1.1. This appeal relates to a small scale low density housing development on the eastern periphery of Ennis town and environs within its planned development boundary. Local residents in the area raise a number of objections on grounds of principle, primarily due to accessibility and flooding. Having reviewed the contents of the file and inspected the site I consider the substantive issues for assessment fall under the following headings:

- Principle of development
- Pedestrian access
- Traffic Safety/Sightlines
- Flooding
- Appropriate Assessment

7.2. Principle of development

- 7.2.1. The case is made by the appellant that the site is not zoned for housing and that it is unsuitable in terms of its remote location and being in a flood plain. It is however conceded that the lands were historically zoned and subject of permitted development, but it remains part of a flood risk area. Furthermore, in respect of the proposed footbridge in the open space zoned lands, it is submitted that as a main access to urban housing, this part of the development could not fall within the category of acceptable recreational uses ordinarily permissible in such zoning. Ultimately it is submitted that the planning authority is permitting development contrary to the development plan.
- 7.2.2. The County Development Plan has changed since the application and appeal lodgement dates. The current plan (2023-2028) provides for low density housing on the site (in line with a previous now lapsed permission) and is otherwise surrounded by agricultural and buffer open space lands, all substantially within a flood plain context. The residential zoning is part of the planned neighbourhood development catchment of Roslevan on the northeastern outskirts of Ennis town. (Map extracts in site inspection photographs in pouch on file.)
- 7.2.3. I have examined the principle of zoning in the context of the overall strategic development objectives for Ennis in the CDP and by reference to ministerial guidance and I consider this to throw up some policy conflicts that undermine the acceptability of the nature of the proposal at this location.
- 7.2.4. In the first instance, Ennis is designated as a key town, being both the largest settlement in Clare and the largest town in Munster. The core settlement strategy for Ennis, as governed by the climate action strategy in Chapter 2 of the CDP, is to

pursue consolidation. Objective CDP 4.1(Vol 1) sets out the strategic settlement objective for Ennis and notably includes subsections:

j) to integrate land use and transport planning such that new employment and residential development should be consolidated in a manner which renders it serviceable by public transport and accessible, at the local level, by walking, cycling and public transport;

k) to promote and encourage sustainable transport, and in particular to make it convenient and attractive to walk, cycle or use public transport, and

l) to support increased levels of town centre living and to assess the potential of the development of a modern family-oriented town centre living pilot project during the lifetime of the Plan.

7.2.5. This is further detailed in the Ennis Municipal District Plan as set out in section 1.2 of Vol. 3a. This I note adheres to the NPF and refers to the need to provide for public transport. While I note the neighbourhood basis, there are a number of considerations in this framework and guidance that raise issues with the location of the site and the nature of the scheme proposed.

7.2.6. It is not connected to the urban environs by a public footpath network. The road from which the site is accessed is a narrowly aligned local rural road with no continuous footpaths connecting to the town or to the school to the west. It is around 3.5km from the town centre making new dwellings highly car dependant. Notwithstanding previous site development works and brownfield features, the site remains relatively isolated and car dependant in that is largely surrounded by undeveloped lands and rural type one off housing in an urban fringe/ rural environment. The site for example, is 3.7k from Abbey Street in the town centre, although services are nearer than this. I note the petrol station to the north and the small neighbourhood centre further away. The remoteness of the site is clearly evident in the 10-minute town catchment maps, (included in site inspection photographs.) Furthermore, the site is served by a rural road which is substandard in its alignment for urban use. It is at least 500m to the west before reaching a more urban road with a footpath. The Road Design Office, I note refers to a 5m wide alignment and also highlights the lack of footpaths and public lighting and the busy nature of the road.

- 7.2.7. I consider the principle of a housing scheme in such circumstances to run counter to the principles set out in the Sustainable and Compact Settlements Guidelines (January 2024) which advocate compact development in central serviced locations. I note for example, it states that planning authorities at settlement level should plan for an integrated network of well-designed neighbourhoods that can meet day-to-day needs (such as food, healthcare, education, sports and professional services) within a short 10 to 15 minute (approx.) walk of all homes. In the case of larger settlements, the residents of less central neighbourhoods should have opportunities to travel by public transport and other sustainable modes (e.g. greenways) to access higher order services, employment and amenities at more central and accessible locations. This will reduce the need for travel and the need for travel by private car, supporting the transition to a lower carbon society and the creation of settlements that are more socially inclusive. In order to achieve compact growth, we will need to support more intensive use of existing buildings and properties, including the re-use of existing buildings that are vacant and more intensive use of previously developed land and infill sites, in addition to the development of sites in locations served by existing facilities and public transport.
- 7.2.8. With respect to the proposed density of 13 dwellings on 1.932hectares, equating to less than 7 units per hectare and at best 8 units per hectare, (assuming a residual of 1.6 hectares), I consider the nature of the proposal to not be in accordance with best land-use practice. The low-density scheme at is extremely low by reference to current guidance which advocates compact urban form. This serves to undermine the economies of scale in terms of providing enhanced infrastructure for the area. In this regard I note the reference in one of the Engineer's reports to the lack of funding for providing a footpath along the road onto which the development fronts.
- 7.2.9. This density is considerably below the guidance as set out in Sustainable and Compact Settlements (January 2024) which, in respect of towns outside the metropolitan area of a city, sets a policy objective density of 40-100dph in centres and urban neighbourhoods and 30-50 dph in suburban /urban extension locations. (Table 3.5 Density for key towns and large towns). While I note the revoked residential housing guidelines advised of the need to respect existing character and I note the decision of the Board previously refusing permission for reasons relating to

impact on character, there has been a considerable shift in planning guidance with an increased emphasis on compact urbanisation as being central to sustainable land use. While I note the rural-type location is more suburban but if suitable for housing, it should be in a more compact and connected format. While it has the potential to visually assimilate subject to landscaping, I consider the proposed development to be in conflict with the strategic aims of the Development Plan as supported by the National Planning Framework, the latest ministerial guidance and the Climate Action Plan insofar as the scheme is remote, excessively low in density and likely to be highly car dependant and accordingly would be contrary to the proper planning and sustainable development of the area. I say this also having regard to the planning history.

7.2.10. Potential for consolidating the area is further compromised by the flood plain location and likely development constraints on developing within Flood risk zones A and B.

7.2.11. The location of the site amid flood plain lands, (flood zone A and B), as would appear evident in the designation of buffer open space and agricultural zoning, indicates that in the foreseeable future, the opportunities for achieving a consolidated urban form and consequent viability in the provision of enhanced service makes this a more piecemeal pattern approach to the development of the neighbourhoods and town contrary to that envisaged in the Ennis development plan in accordance with the parameters set out in the NPF as referred in the Vol 3a. I refer in particular to the lack of connectivity to the town along its road frontage and lack of potential for access to alternative means of transport to the car such as public transport. The low density further undermines the potential for a viable public transport service.

7.2.12. While the applicant argues about the efficiencies of the site in that it has been developed in terms of site works and provision of services, I would not describe the site as substantially complete. This in any event does not preclude the Board from de novo consideration.

7.2.13. The current development plan I accept provides for residential development in principle in that it is zoned for low density housing as governed by LDR12, however, in view of the foregoing assessment, the proposed development cannot, I consider, be reconciled with the strategic aims for Ennis such as, providing for a high quality urban environment to create sustainable communities with an appropriate mix of

housing types and densities together with complementary land uses such as community facilities and public transport facilities for the current and future residential population of Ennis. (Section 1.4.1 Vol 3a.) The likely high degree of car dependency where public transport is, and likely to be, unfeasible in many respects does not meet with the criteria for sustainable mobility (section 8.3.1 Vol 1) nor does it meet with the definition of sustainable and efficient movement – a key priority in the recent S.28 guidance.

- 7.2.14. While I note the decision by the Board in the case of 22 houses off Millbank Road to the west, I do not consider this case to be directly comparable given its closer proximity to the town centre and services and its connectivity in addition to the change in planning policy and guidance.

7.3. Pedestrian Access

- 7.3.1. In a considerable effort to overcome the lack of footpaths, the proposal includes pedestrian linkage to the Tulla Road via the existing housing development to the west of the river. The site is within 100m as the crow flies of this housing development to the west, however pedestrian linkage via this estate would be similar to the 3.7km distance along the existing road network which lacks a continuous footpath.
- 7.3.2. The proposed linkage is via a newly constructed pedestrian bridge also proposed by the applicant through the flood plain and connecting the existing and proposed cul-de-sac developments. In theory this accords with the measures proposed to achieve connectivity and a 10-minute town and I do agree that such provision would conflict with open space zoning. There are however considerable limitations as an alternative to the car. The proposed route alignment is between proposed houses 10 and 11 from where it would extend approx. 180m between the nearest dwellings. While this a laudable linkage for the purposes of contributing to connectivity, I do not consider it to be a viable substitute for footpaths along the road frontage. While it could provide a pleasant daytime amenity (particularly as part of a parkland corridor but there are no plans for this), it is not a practical alternative to the car for most daily trips. The low density and remoteness of the 13 dwellings would not, in my

judgement and by reference to best urban design practice and likely footfall, provide a sufficiently safe environment for walking to school or for solo trips. Notwithstanding the proposed lighting, there is a significant absence of passive surveillance. Even the lighting is set to be at low level and regulated to minimise interference with bats. Furthermore, the flood plain location potentially inhibits the opportunity for development frontage along this route.

7.3.3. I further note that the footbridge is subject of a section 50 license consent from the OPW and therefore is not guaranteed. For something that is essential this is not ideal.

7.3.4. Ultimately given the out-of-town remote location, I do not consider the proposed footbridge meets with the criteria to achieve a 10-minute town as advocated in national policy and to sufficiently overcome the lack of connectivity and optimisation of land-use and transport integration .

7.4. Traffic Safety

7.4.1. There is much dispute about the ability to achieve adequate sightlines. In the first instance there is lack of clarity as to the standard required and secondly there is a dispute as to the achievement of even the minimum standard.

7.4.2. With respect to the standards required, the planning authority ultimately in its decision to grant permission is satisfied that the design speed is less than 80kph due to the alignment of the road. This was determined despite the need for a bigger visibility spay recommended by the Road Design Office. My understanding of the road signs at time of inspection was that the site entrance was outside the 50kph however subsequent clarification by the applicant as supported by correspondence from the county council engineers explains that the 50kph limit is applicable although officially temporary for road and site works. In this regard I note the location of the site within the delineated Ennis District development area and also the reported Government speed limit review and policy seeking to lower limits which indicate a strong likelihood of the design speed staying at the lower end.

7.4.3. Accordingly, in such circumstance, the provision of 120-160m as required for 80pkph and in the previous permission no longer applies. The submitted drawings show a revised entrance to the west (as compared to previously permitted and constructed)

hence further reducing reliance on property to the east and notably that of the appellant who was the consenting landowner to the works on their lands in order to provide the required visibility for the development previously permitted.

- 7.4.4. While I note a number of safety measures such as a footpath fronting the site and public lighting, it remains the case that the site is not connected to the town via a footpath and together with the narrow road alignment, and I therefore consider development of the nature proposed would constitute a traffic hazard.

7.5. Flood Risk

- 7.5.1. The appellant makes the case that the site is unsuitable for development due to its location in the Gaurus flood plain and that if proposed development was at the original ground levels (prior to the original permission) it would not have been permitted on grounds of failing the Justification Test. The only reason it is in a Flood Risk Zone C, it is submitted, is by virtue of raising the ground level by 1m with an estimated 20000m³ volume of fill. This associated fill is submitted to contribute to a loss of flood water storage.
- 7.5.2. I note that the planning authority refers to possible upstream issues and sought further information in respect of maintenance of storage capacity (relating to a finger of land in flood risk zone B) as required by the engineering division, retention of zone B lands and confirmation that there are no negative impacts and also confirmation of completion of flood storage work in nearby lands under applicant's ownership. This was addressed to the satisfaction of the planning authority subject to conditions. As a further precaution details were also sought and submitted in respect of impact of coastal flooding. Such details were submitted by the applicant. (Letter received on 23rd September 2021 from Hydro environmental.)
- 7.5.3. The applicant does not dispute the history in so far as the level of the site has been altered. The Flood Risk Assessment illustrates the topographical survey points and Fig 2-3 shows the site to be substantially above 4.4m. It shows the proposed residential development footprint is located within the Low Flood Risk Zone C land and the applicant has clarified the proposed development footprint is where existing ground levels are above 4.5mOD and it is not at risk from coastal flooding .

Accordingly I accept that the ffl at 5.4mOD allows for sea level rise projections and that development is acceptable in the context of Flood Risk Management planning guidelines. I further note that it is confirmed that all previous requirements under 99/232 have been complied with for hydrology/drainage and that the subject application has included these existing drainage works as built into the flood risk assessment and then determined in the 100 and 1000 year flood level and minimum finished floor levels. I further note that the FRA factors in climate change and statistical error and the zone of impact relative to the landholding. The FRA also informs the finished floor level to achieve more than adequate freeboard. I note from the topographical survey map that small pockets along the road frontage and to the northwest are below this but are outside the development footprint of the road and dwellings. It is stated that the actual topographical survey of the site presented in the FRA which has a much higher accuracy and shows the filled section of the site to be above the CFRAM 1000year flood level.

- 7.5.4. The only vulnerable aspect of the development is the proposed footbridge which straddles Zones A and B and this has been addressed through design whereby it fully spans the river channel with a 6m span width and soffit level at 5.5m providing suitable clearance above the 100 year flood level for floating debris. I note it is confirmed that the simulated results show no implications on flooding or flood risk to the surrounding lands both upstream and downstream of the bridge. The simulation also predicts a small and very localised rise of 1 and 2cm in the 100 and 1000 year flood levels immediately upstream of the bridge and which is dissipated within a short distance of 80m upstream and within the developer's landholding.
- 7.5.5. Having regard to the planning history and consent for previous development and associated works I consider the baseline data to be reasonable. A deviance from permitted development is a matter for enforcement. I further note the technical reports of the planning authority in respect of drainage issues. I also note there are conditions in relation to SuDs incorporated into the planning authority decision which provide a safeguard for controlling run-off impacts external to the site. Accordingly in this case I do not consider there is a reasonable basis to refuse permission on grounds of flood risk.

7.6. Ecology

- 7.6.1. The appellant makes reference to the loss of the reed habitat on the site . Having regard to the zoning provision for housing development and the footprint of the development being on raised and disturbed ground and having regard to the limited scale of development of the footbridge across the river channel spanning over 6m I do not consider this impact to be significant. The wider implications are addressed in the appropriate assessment.
- 7.6.2. I also note that there is a bat presence on the site as indicated by the Bat Survey, notwithstanding its timing in April outside the recommend months for survey. The planning authority has I note addressed this presence and the comments of the DAU though landscaping in order to maintain an appropriate habitat for commuting and foraging. In the event of permission, the retention of the proposed landscaping and hedgerow is an important consideration.

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:

1. Compliance with Article 6(3) of the EU Habitats Directive
2. Screening the need for appropriate assessment
3. The Natura Impact Statement and associated documents
4. 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. 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 introduction.
- 8.3.2. The AA Screening Report was prepared by reference to current best practice guidance as set out in the Introduction of that report. It describes the site features in section 1 and baseline ecological environment on section 2.3.5. It describes the characteristics of the proposed development taking account of the Flood Risk Assessment and drainage proposals.
- 8.3.3. In accordance with the methodology in section 3.1 the report 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;
1. the Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA European Sites given the potential for deterioration of water quality primarily through surface water runoff during construction and

operation and via wastewater during construction which may have the potential to result in significant effects on the QI..

- 8.3.4. Having reviewed the documents and submissions on file, 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

- 8.3.5. 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.
- 8.3.6. A description of the development is set out in section 2 of this report and I have also noted the EclA, bat survey and flood risk assessment in this regard. In summary, the proposed development involves the development of a housing development on a disturbed site within the development boundary of Ennis and with access to services. The application site extends to 1.9 hectares and is described, in terms of habitat, as consisting mainly of recolonising bare ground, dry meadows and grassy verges and scrub, and also including spoil and bare ground and a wall (classed as buildings and artificial surfaces with hedgerow and treeline to the north and hedgerow to the south.
- 8.3.7. To the west of the site there is a watercourse - Spancelhill within the site classified as Depositing/lowland river with connectivity to the River Fergus. Its characteristics are described in detail: its riparian habitat includes an earth bank, hedgerow, grassland and reed and sedge swamp habitats. Japanese knotweed is also recorded. No Annex 1 habitats or Annex II fauna were recorded.
- 8.3.8. 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.

Submissions and Observations

- 8.3.9. DAU: comments, as noted (in section 3.3 of this report), on water quality and potential impacts on River Shannon/River Fergus European sites.
- 8.3.10. The 3rd party observations on the appeal raised issues concern the loss of reed habitat.

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 - 320m away. Due to the existence of a substantially the Spancelhill watercourse and following a precautionary approach and potential for deterioration in water quality as result of surface water run-off 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..
- Ballyallia Lake SAC 000014 – 1.9km away - 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
- Old Domestic Buidling (Keevagh) SAC 002010 – 4.3km 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 – 5.2km away. No potential for surface water connection due to different subcatchment and while LHB is a QI due to the distance and nature of works it is outside the likely zone of impact.
- Newhall and Edenvale Complex SAC (002091) – 5.5km away. LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact
- Pouladatig Cave SAC 00037 - 6.4km. Due to the distance and nature of the proposed works there is no potential for terrestrial impact on the Caves habitat .LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact.

- Toonagh Estate SAC 002247 - 6.6km 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 – 7.1km away LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact.
- Old Domestic buildings, Rylan SAC (002314) - 7.8km 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) – 7.9km away. LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact.
- Old farm buildings, Ballymacrogan SAC 002245 - 8.8km away. LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact.
- Moyree River System SAC 000057 – 9.5km 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.
- Ballycullinan, Old Domestic building SAC 002264 - 9.5km 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 – 6.7km away. Due to nature and distance no potential for indirect effects on fens habitat not within zone of impact.
- East Burren Complex SAC 001926 – 10km away. Habitats are hard oligo-mesotrophic water and turloughs and a range of flora but the site is entirely outside the site and outside the likely zone of impact.
- Lough Gash Turlough SAC 000051 - 10.4km 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.
- Knockanira House SAC 002318 – 10.7km away. 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 of works no potential for indirect effect and outside likely zone of impact.

- Kilkishan House SAC 002319 -13.5km away . LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact.
- Ratty River Cave SAC 002316 – 15km away LHB is a QI but the site is outside the 2.5km foraging range and outside the likely zone of impact. Due to distance and nature of works no potential for indirect effect and outside likely zone of impact.
- Ballyallia Lough SPA 004041 2.62km away . No direct hydrological connection and due to habitat no loss of supporting habit. No potential for significant effects.
- River Shannon and River Fergus Estuaries SPA 004077 - 4.1km away. Due to the watercourse on site and nature of footbridge works, potential for indirect effect though the hydrological connection and potential for indirect effect from quality deterioration and potential of indirect effect on QI habitat for SCI Bird species Wetlands and Waterbirds. The extent of bare earth and scrub does not provide a significant habitat for the QI bird species and no indirect effects likely through disturbance or displacement. Further assessment is required.
- Slieve Aughty Mountain SPA 04168 6.4km No hydrological connection due to bare earth and scrub habitat no loss of supporting habit. Given nature and scale no potential for disturbance or displacement and thereof ren no potential for significant effects.
- Corofin Wetlands SPA 004220 11.2km away. No hydrological connection and no pathway for indirect effects on QI wetland birds or habitats. The site habitat does not support these QI and given nature and scale of works, there is no potential for disturbance or displacement of these species. No potential for significant effects.

8.3.11. 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 Spencilhill watercourse flowing through the project site to River Fergus, 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)	<p>Sandbanks which are slightly covered by sea water all the time [1110]</p> <p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Coastal lagoons [1150]</p> <p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinia caerulea</i>) [6410]</p>	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>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Tursiops truncatus</i> (Common Bottlenose Dolphin) [1349]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>		
River Shannon and River Fergus Estuaries SPA (004077)	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Whooper Swan (<i>Cygnus cygnus</i>) [A038]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p>	c.3.2km	No supporting habitat for QI bird species. Potential to generate contaminated surface run-off during construction and operational phases. This

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

Identification of likely effects

8.3.12. **Assessment of likely Effects:**

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

- 8.3.13. 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 substantially bare earth and scrub habitats, does not support SCI bird species. 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 watercourse has the potential to be contaminated without mitigation by materials such as hydrocarbons, cement-based material and construction emissions and silt. Wastewater generated during construction has the potential to impact and effect water quality.
- 8.3.14. Effects are therefore based on the hydrological connection provided by the watercourse 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 watercourse flowing through the project site to the River Fergus and to the nature of works associated with the footbridge across the river, both of these European Sites are within the zone of influence.
- 8.3.15. 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.
- 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)

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)

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. Other relevant documents include the Ecological Impact Assessment, the CEMP (as clarified in further information) and the Lighting Report. The NIS examines the potential effects of the proposed development on the integrity of the relevant European Sites below.:

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

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:

1. 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 diffuse pollution to surface waters due to wastewater discharge from housing to receiving waters (via the WWT) could provide a pathway for impact on habitats and species.

8.5.3. **Water quality** effect on 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 for these sites. It identifies pollution to surface waters due to household sewage and wastewaters as a threat.

8.5.3.2. Screened in QIs for **Lower River Shannon SAC** 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. Each is examined in view of the targets and nature of proposal.

8.5.3.3. The only screened in QI for **The River Shannon and River Fergus Estuaries SPA (Site Code: 004077)** is Wetland and Waterbirds.

8.5.3.4. 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.

8.5.3.5. 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.

8.5.3.6. Measures for the protection of the environment and water quality have been incorporated into project through the bridge design as detail in further information and through a suite of best practice environmental control measures also incorporated into the design. The set up phase measures include site compounds, fuel and material storage area ensuring there is no potential for water quality deterioration or effects on ecological receptors.

8.5.3.7. 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.

8.5.3.8. At operation phase, the appropriate connections to wastewater and design of storm water management will block pathways between the site and the aquatic receptors downstream in the Natura sites.

8.5.3.9. 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 of the extensive bare earth and scrub habitat, as supported by the surveys.

- 8.5.3.10. Section 6 of the NIS states the residual impacts for each QI. No adverse impacts are stated to be likely having regard to the targets for each QI/SCI and the range of measures as set out in section 5 to void water pollution.
- 8.5.3.11. 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 other species (not of special conservation interest) as identified in the Ecological Impact Assessment. Notably as part of the infrastructure provision, the scheme provides for future connection of domestic wastewater systems to the public sewer. The provision for SuDs and its design capacity will also inhibit excess run-off filtering directly to the watercourses.
- 8.5.3.12. 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- most notably the national school to the east outside the development boundary. I also note in the case of housing to the west PL309568 that the Board was satisfied that it would not adversely affect the integrity of the Lower River Shannon SAC. This development sites is on similarly zoned lands and relies on connection to municipal infrastructure in terms of drainage. I further note the assessment of the proposal in the context of the county development plans at the time of application which is reasonable. 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.
- 8.5.3.13. 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 that the proposed development, individually or in

combination with other plans and projects would not adversely affect the above-mentioned European Sites.

8.5.4. Appropriate Assessment Conclusions

8.5.4.1. 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) or the River Shannon and River Fergus Estuaries SPA (Site Code: 004077)

8.5.4.2. 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.

8.5.4.3. I am satisfied that an examination of the potential impacts has been analysed and evaluated using the best scientific knowledge available. 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.

8.5.4.4. 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) or the River Shannon and River Fergus Estuaries SPA (Site Code: 004077), in view of their Conservation Objectives.

8.5.4.5. 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

9.1. I recommend that permission be refused for the proposed development based on the following reasons and considerations.

10.0 Reasons and Considerations

1. It is considered that the proposed low density development in a location lacking pedestrian connectivity to the town centre would be highly car dependant and would in the manner proposed constitute piecemeal, fragmented and uncoordinated development in a rural type location and would therefore be in direct conflict with the strategic settlement objective for Ennis, CDP 4.1, in Volume 1 of the current Clare County Development Plan 2023-2028 which aims to 'integrate land use and transport planning such that new employment and residential development should be consolidated in a manner which renders it serviceable by public transport and accessible, at the local level, by walking, cycling and public transport' and 'to promote and encourage sustainable transport, and in particular to make it convenient and attractive to walk, cycle or use public transport. Accordingly the proposed developemtn would be contrary to the Ministerial Guidelines Sustainable and Compact Settlements (January 2024 which advocate compact development and integration with public transport. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Note: I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Suzanne Kehely

Senior Planning Inspector

22nd January 2024

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	13 dwellings on 1.92 ha and footbridge.		
Development Address	Knockanean, Ennis, Co. Clare		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No x	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class	EIA Mandatory EIAR required
No		x	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold... Class (10)(b) of Schedule 5 Part 2	Proceed to Q.4

		<p>(a) Construction of more than 500 dwelling units,</p> <p>(b) 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.)</p>		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____