



An
Bord
Pleanála

Inspector's Report

ABP-315419-22

Development	Construction of 5 social housing units and all associated site works.
Location	Hogan's Place, Limerick Road, Ennis, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	22901
Applicant(s)	Kilshane Investments Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Kilshane Investments Limited
Observer(s)	Eugene Folan, Reene Kelly, Aileen Hennessy
Date of Site Inspection	18 th December 2023
Inspector	Ciara McGuinness

1.0 Site Location and Description

- 1.1. The site is situated in a suburban residential area to the south of Ennis, Co. Clare. The site is accessed from the Limerick/Clare Road (R458) and is situated circa 0.7km west of the River Fergus. The site comprises the northern end of a grassed area of public open space located within a recently completed residential development ('Hogan's Place') of 24 no. houses and has a stated area of 0.18ha.
- 1.2. Abbey Court and Abbey Ville housing estates are located to the north and east of the site. Westfield Housing estate is located to the south. The site backs onto a high boundary wall separating it from a housing estate road (Abbey Court) to the north and adjoins the rear garden boundary walls of No. 29-32 Abbey Court to the east. The southern boundary of the site is undefined. The western boundary of the site is bounded by a foot path connecting Hogans Pace to the Abbey Court estate road. The topography of the site falls gently towards the south. As per the foul and storm layout plan submitted with the application, a surface water attenuation tank for the 'Hogan's Place' development is indicated in the southwest of the open space.

2.0 Proposed Development

- 2.1. The proposed development is for 5 no. two-storey houses on the northern end of public open space in the 'Hogan's Place' estate. The proposed houses are described as social housing units in the public notices. The houses would face the retained area of public open space to the south of the site. The front and rear building lines would correspond with the recently constructed houses to the west. The design and finishes would also be in keeping with the existing houses in the estate.
- 2.2. Access to the houses is to be provided by way of a spur cul-de-sac road off the main estate road. Each house would have 2 no. off-street carparking spaces; a further 4 no. visitor carparking spaces are proposed on the south side of the access road. Connections are proposed to the existing water supply, wastewater and surface water infrastructure. The application was accompanied by a Flood Risk Assessment.

3.0 Planning Authority Decision

3.1. Decision

Clare County Council decided to refuse permission for the following two reasons;

1. The proposed development would encroach on public open space permitted under reg ref P18-1007 and materially contravene conditions No. 1 and 15 of said permission, thereby seriously injuring the amenities of the existing permitted dwellings.
2. The site is situated in Flood Risk Area 'A' where dwelling houses are classed as highly vulnerable developments. The proposed development would, therefore, be contrary to the Strategic Flood Risk Assessment of the Clare County Development Plan 2017-2023 and the Flood Guideline published by the DoEHLG.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report did not consider the principle of development acceptable having regard to the location of the site in a flood risk zone and the fact that it forms part of public open space permitted under P.A. reg ref P18/1007. It is stated that encroachment on what was identified as open space under this permission is unacceptable from a residential amenity perspective. Refusal was recommended for these reasons.

3.2.2. Other Technical Reports

Area Engineer: Notes the site is in Flood Zone A and that evidence to confirm that the recently completed Ennis South Flood Relief Scheme will benefit the site has not been submitted. States no significant weather events have occurred since the completion of the scheme and that the proposed development is premature pending a reasonable evaluation of the effectiveness of the scheme during significant weather events. It is noted that no evidence was submitted to demonstrate that the attenuation tank installed under P.A. reg ref P18/1007 has capacity for the increased

surface water loading that would arise and that detailed storm water calculations were not provided.

Chief Fire Officer: No Objection

Taking in Charge Team: Sets out requirements for construction traffic, roads, footpaths, surface water and boundaries. Notes the submitted PFRA indicative mapping indicates the site is not liable to flood risk despite post works flood mapping not being available.

3.3. **Prescribed Bodies**

Uisce Eireann: No objection.

Irish Aviation Authority: No observations on the application.

3.4. **Third Party Observations**

A total of 5 no. third party observations were made on the application. The issues raised are summarised as follows;

- Loss of public open space
- Flood Risk
- Relationship with adjacent dwellings
- Excessive concentration of social housing
- Traffic Hazard
- Construction Impacts
- Character of the area
- Overlooking

4.0 **S.132 request for Further Information**

4.1. The Board is advised that, having considered the flood risk justification test submitted with the application, the following further information was sought on behalf

of the Board in accordance with Section 132 of the Planning and Development Act 2000, as amended.

1. Detailed calculations for the storm water design of the proposed development, allowing for climate change, and evidence that the existing attenuation system/tank in the 'Hogan's Place' estate has sufficient storage capacity to handle increased flows from the proposed development.

5.0 Planning History

P.A. reg ref 18/1007: Permission granted 10th October 2019 for the construction of 25 no. houses on a site known as 'Hogan's Field', with vehicular access from Clare Road, and all associated landscaping and site development works for Seamus Lynch.

Condition 6 required the omission 1 no. dwelling.

Condition 15 required that open spaces shall be developed for, and devoted to public use and shall be kept free of any development.

6.0 Policy Context

6.1. Clare County Development Plan 2023-2029

- 6.1.1. The site is zoned 'Existing Residential' with a stated objective to conserve and enhance the quality and character of the areas, to protect residential amenities and to allow for small scale infill development which is appropriate to the character and pattern of development in the immediate area and for uses that enhance existing residential communities.
- 6.1.2. The site is in Flood Zone A and/or B as indicated on the Map of Ennis contained in Volume 2 of the Plan (note: that the mapping is not entirely conclusive).
- 6.1.3. Development Plan Objective: Flood Risk Assessment and Management CDP2.6 states that it is an objective of Clare County Council:
 - a) To ensure development proposals have regard to the requirements of the SFRA and Flood Risk Management Guidelines; and where required are supported by an appropriately detailed hydrological assessment / flood risk assessment.

- b) To ensure that flood risk assessments include consideration of potential impacts of flooding arising from climate change including sea level rise and coastal erosion;
- c) To integrate sustainable water management solutions, prioritising nature based solutions (such as SUDS, nonporous surfacing and green roofs) into development proposals;
- d) To include Natural Water Retention Measures (NWRMS) where appropriate in consultation with the Office of Public Works (OPW) and other relevant stakeholders;
- e) To support investment in the sustainable development of capital works under the Flood Capital Investment Programme and Flood Risk Management Plans developed under the Catchment Flood Risk Assessment and Management (CFRAM) process; and
- f) To ensure that potential future flood information obtained/generated through the Development Management process is used to inform suitable adaptation requirements in line with the Guidelines for Planning Authorities on Flood Risk Management (DoECLG & OPW, 2009).

6.1.4. Section A1.4.2 of Appendix 1 of the Plan sets out development management guidelines for urban residential development.

6.2. National Planning Framework

The NPF seeks to focus growth in cities, towns and villages with an overall aim of achieving higher densities than have been achieved to date.

NP Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

NP Objective 35 seeks to increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of old buildings, infill development schemes, area or site-based regeneration and increased heights.

6.3. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas

- 6.3.1. The guidelines state that infill residential development sites may range from small infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance needs to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.
- 6.3.2. The guidelines recommend that in green-field sites or those sites for which a local area plan is appropriate, public open space should be provided at a minimum rate of 15% of the total site area. In other cases, such as large infill sites or brown field sites public open space should generally be provided a minimum rate of 10% of the total site area.

6.4. The Panning System and Flood Risk Management: Guidelines for Planning Authorities (2009)

- 6.4.1. The Guidelines introduce comprehensive mechanisms for the incorporation of flood risk identification, assessment and management into the planning process. The core objectives of the guidelines include, inter alia, the avoidance of inappropriate development in areas at risk of flooding.
- 6.4.2. Section 5 of the Guidelines set out a Justification Test (Box 5.1) for new development in areas of high or moderate risk of flooding that includes types of development that is vulnerable to flooding. The Justification Test criteria to be satisfied comprises;
1. The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these guidelines.
 2. The proposal has been subject to an appropriate flood risk assessment that demonstrates:

- i. The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk;
- ii. The development proposal includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible;
- iii. The development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access; and
- iv. The development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscape.

6.5. Circular PL02/2014: Flooding Guidelines

- 6.5.1. The circular advises on the use of OPW mapping in assessing planning applications and clarifies the advice given in the 2009 Guidelines for Planning Authorities: The Planning System and Flood Risk Management. The circular updated Section 5.28 of the Guidelines to include small scale infill development. Section 5.28 now reads as follows;

“Applications for minor development, such as small scale infill, small extensions to houses or the rebuilding of houses, and most changes of use of existing buildings and or extensions and additions to existing commercial and industrial enterprises, are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances. Since such applications concern existing buildings or developed areas, the sequential approach cannot be used to locate them in lower-risk areas and the Justification test will not apply. However, a commensurate assessment of the risks of flooding should accompany such applications to demonstrate that they would not have adverse impacts or impede

access to a watercourse, floodplain or flood protection and management facilities. These proposals should follow best practice in the management of health and safety for users and residents of the proposal.”

6.6. **Natural Heritage Designations**

Lower River Shannon SAC (Site Code 002165) – located circa 0.7km east of the site.

River Shannon and River Fergus Estuaries (004077) – located circa 2.2km south of the site.

Newhall Edenvale Complex SAC (002091) – located circa 2.2km south of the site.

Ballyallia Lake SAC (004041) – located circa 3.2km north of the site.

Pouldatig Cave SAC (000037) – located circa 3.6km west of the site.

6.7. **EIA Screening**

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA or EIA determination, therefore, is not required.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

The appeal is a first party appeal against Clare County Council’s decision to refuse permission. The grounds of appeal are summarised as follows;

- The proposed development would retain 15% open space for the overall ‘Hogan’s Place’ site which is more than the 10% minimum requirement in the County Development Plan.
- The density of the housing scheme would be increased from 20-24 units per hectare in accordance with good developments standards and the proper use of available land in central urban locations.

- The proposed development passes the flood risk justification test insofar as the lands are zoned for residential development and the development has been the subject of a flood risk assessment.
- Surface water generated within the site will be managed by a dedicated on-site storm water management system. It is predicted that the proposed development will not impact flood risk elsewhere.
- The layout of the development minimises flood risk to people, property, the economy, and the environment.
- The site will benefit from protection provided by the increased overflow culvert at the St. Flannan's College Swallow Hole as part of the Ennis South Flood Relief Scheme.
- The development is compatible with the wider objectives of the area.
- The floor levels of the houses are well above the estimated flood level.
- Updated flood mapping from the Ennis South Flood Relief Scheme indicates that the site is no longer in Flood Zone A. The proposed development is in an area of existing high ground adjacent a residential development currently under construction.
- The Ennis South Flood Relief Scheme reduced water levels by approx. 0.3m; If the scheme has a similar effect on the 0.1% AEP event the subject site will be predominantly located in Flood Zone C as most of the flood depths during the 0.1% AEP event on the subject site are < 0.25m.
- As the Flood Relief Scheme has shown the subject site is no longer liable to flooding during the 1% AEP event, and given the small footprint of the proposed development, it will not have an impact on flood risk elsewhere.
- An addendum prepared by Tobin Consulting Engineers has been attached to the Flood Risk Assessment and includes additional flooding information and figures.

7.2. Planning Authority Response

The Planning Authority's response to the appeal is summarised below;

- The eastern end of the development site permitted under reg. ref. P18/1007 was specifically designated by the applicant for open space use due to its location in a flood risk area; planning permission was granted on that basis.
- Condition 15 attached to the permission requires that open spaces shall be developed for, and devoted to, public use and shall be kept free of any development.
- In considering the proposed development under the current application, the Planning Authority had regard to the reasonable expectation of both existing and prospective residents regarding the location and quantity of open space to be provided.
- The need for housing must be balanced against issues such as compliance with conditions for the permitted development and the objectives of County Development 2017-2023, as varied, and Flood Risk Management Guidelines regarding vulnerable uses. Having considered these issues, the principle of development is not considered acceptable in this instance.
- Whilst the contents of the submitted FRA were fully noted and considered, a report from the Ennis Municipal District Office raised serious concerns in relation to the proposed development, noting that the FRA was compiled in the absence of flood risk mapping following completion of the Ennis South Flood Relief Scheme.
- The impact of the scheme is currently unknown, with no significant weather occurring since the works were completed. The proposed development is, therefore, considered premature.
- No evidence has been provided to confirm the attenuation system/tank permitted under reg ref P18/1007 is sufficient to handle the increased flows from the proposed development.
- Detailed calculations of storm water design were not submitted with the application.

7.3. Observations

An observation on the appeal was received from Eugene Folan, Reene Kelly and Aileen Hennessy, residents of Abbey Court/ properties to the east of the subject site. The observation is summarised as follows;

- The decision of Clare County Council to refuse permission is supported.
- The permitted 24 no. houses under P.A. reg ref P18/1007 were sold off the plans to Cluid Housing Association and are to be rented out; there would be no owner occupiers in the estate ('Hogan's Place').
- There are no children's play areas or facilities on the east site of Ennis town. The permitted 24 no. houses at 'Hogan's Place' requires a suitably sized green space for 72 no. children based on an average of 3 no. children per dwelling.
- The permitted green area at 'Hogan's Place' would be reduced from circa 3,169sqm to circa 1,564sqm; this area is too small for 70 plus children. This is contrary to the objective of the County Development Plan to produce a development that is fit for purpose.
- The flood justification test is not independent.
- The applicant is required by way of condition to install an attenuation tank; if the area was not at risk of flooding this condition would not be required.
- During the last major flooding events on the east side of Ennis in 2012 and 2015, which the Ennis South Relief Scheme was put in place to resolve, there was no overflow flooding in the Abbey Court Estate.
- The Ennis South Relief Scheme (Drawing No.:2188_FI_04-A) was available to the Council when it was refused permission for the proposed development on the flood risk grounds.
- The observers are not aware of any published update from the Council regarding the impact of the Flood Relief Scheme on their properties. Confirmation sought that there is no risk of flooding in Abbey Court properties to the east of the development site.

- Flooding was witnessed in 2012 and 2015 in the Abbey Ville estate which raised insurance concerns in Abbey Court.

8.0 Assessment

8.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows;

- Principle of Development
- Flood Risk
- Appropriate Assessment
- Other Matters

8.2. Principle of Development

8.2.1. The Clare County Development Plan 2023-2029 has been adopted since this application was first assessed by the Planning Authority and the zoning of the site has changed from 'Residential' to 'Existing Residential'. Multiple residential units are listed as 'open for consideration' on 'Existing Residential' zoned land in the land use zoning matrix in Appendix 2 of the Plan. The Plan states open for consideration uses will be subject to considerations such as compatibility with adjoining uses, scale and whether the proposal is prejudicial to the amenities of an area or the residential of an adjoining property.

8.2.2. Whilst I acknowledge that the proposed development would reduce the area of public open space permitted under P.A. reg ref P18/1007, I note that the extent of open space proposed under the application was dictated by the fact that the eastern end of 'Hogan's Place' site was identified as being within Flood Zone A. I will deal with the issue of flooding separately in Section 8.3 below.

8.2.3. I note the open space permitted under P.A. reg ref 18/1007 has not been transferred to the Local Authority. As per the appeal, the quantity of open space proposed to be retained under the current application (1,762sqm) amounts to circa 15% of the overall site area (1.19ha) of the 'Hogan's Place' housing estate. As such, an

acceptable quantity of open space in accordance with the Planning Guidelines for Sustainable residential Development in Urban Areas would be provided for the existing and future residents of the development. Furthermore, the provision of 5 no. dwellings to the north of the remaining open space would provide for additional building frontage and passive surveillance, thereby enhancing the quality of the space, which is presently defined by high boundary walls on three sides. As such, I am satisfied that the proposed development would not seriously injure the amenities of the existing dwellings in the estate. I also concur with the applicant that the proposed development would provide for a more sustainable use of land in a serviced urban area.

- 8.2.4. I am also satisfied that the nature and scale of the proposed development is compatible with the adjoining residential properties and the proposal would not be prejudicial to the residential amenities of any adjoining properties.
- 8.2.5. Third party observations on the appeal state that there is a lack of open space/play facilities in the local area and that the retained area of open space is too small for the estate. I note that the subject is not zoned 'open space' and that the permitted open space on the site was intended as an informal active play and passive recreation space to primarily serve the residents of the 'Hogan's Place' development.
- 8.2.6. Condition no. 1 attached to P.A reg ref P18/1007 is a standard condition that the proposed development shall be carried out in accordance with the planning and particulars lodged with the application. It does not preclude that applicant from amended the permitted development by way of a subsequent planning application. The issue of flood risk on the subject site appears to have formed the basis for Conditions no.15 although this is not explicitly stated, I proposed to deal with the issue of flooding under a separate heading below.
- 8.2.7. Having regard to the foregoing I consider the principle of development to be acceptable and recommend that the Planning Authority's first reason for refusal be disregarded.

8.3. **Flood Risk**

- 8.3.1. The proposed development is located within Flood Zone A as identified in the OPW's Shannon Catchment Flood Risk Assessment and Management (CFRAM) study, which informed the Strategic Flood Risk Assessment of the County Development

Plan. Whilst the applicant is not aware of the site ever being flooded, the Flood Risk Assessment (FRA) submitted with the application identified the source of flooding at the subject site, as predicted by the OPW CFRAM study, as flows propagating at a swallow hole at St. Flannan's College circa 530m NW of the subject site. The FRA states the swallow hole has historically been susceptible to flooding due to insufficient hydraulic capacity in the karst conduit and in an inefficient overflow culvert system. The FRA goes on to say that an overflow culvert has been constructed as part of the Ennis South Flood Relief Scheme and predicts that it will increase the conveyance capacity of the Edenvale Stream from St. Flannan's College to the River Fergus and minimise the overland flow path predicted as part of the CFRAM study. This watercourse is located circa 300m N of the subject site and flows west to east towards the River Fergus.

- 8.3.2. The Flood Risk Assessment submitted with P18/1007 states the site at 'Hogan's Field' has not been subject to recent historical fluvial flooding, even during the two most severe flood events in November 2009 and December 2015. The 2018 FRA was critical of the OPW's CFRAM flood modelling for St Flannan's swallow hole. In this regard it is noted that during the 2009 flood event, which was a significant flood event in excess of a 50-year return period, flooding was not observed in 'Hogan's Field' or the Abbey Court estate, whereas CFRAM mapping for the frequent 10-year flood event shows extensive flooding of these lands. The 2018 FRA also stated that the overland modelling carried out by the CFRAM consultants is very coarse with the urban environment of houses, walls etc. removed from the digital terrain modelling. The FRA states the source of flood risk to the 'Hogans Field' site is groundwater flooding with the estimated 100-year flood level at circa 4.75m O.D. and the 1,000-year flood level at c.5.0m O.D. The FRA concluded that the flood risk management of the site is not dependent on the Ennis South Flood Relief Scheme and the proposed minimum finished floor levels for the development (6.1m O.D), is 1.1m above the estimated 1000-year flood level, which would provide ample freeboard allowance for uncertainty including future climate change.
- 8.3.3. The Ennis Municipal Engineer's further information report (dated 21/06/2019) on P.A. reg ref 18/1007 stated the following in respect of the FRA;

“The content of this report is noted. The Ennis Municipal District Office has not observed any flooding on the lower section of Hogan’s Field during the more severe flood events.

In reference to items raised in the FI submission regarding flooding in Abbey Court Abbeyville, the Ennis MD Office has observed some localised surface flooding in gardens of houses in the NW end of Abbeycourt-Abbeyville during severe flood events. (This area is not served by the drainage network in Abbeycourt-Abbeyville that is proposed for the discharge of the attenuation flow from the proposed development). The Ennis South Flood Scheme which is under construction will provide a dedicated overflow culvert from St. Flannan’s swallow hole to the back drains of the River Fergus. The culvert in conjunction with the existing sub terranean flow will reduce the surcharge on the existing storm water network in the Tobairteascain Area. As stated in the conclusion of the Flood Risk Assessment the flood risk management of this site does not rely on the completion of the St. Flannan’s College/Ennis South Flood Relief Scheme and therefore does not rely on the completion of this scheme to safeguard the development from flooding and this would be the conclusion of the Ennis MD office. The open space as identified in the FI drawings submitted shall be constructed as shown and shall be designated as open space.”

- 8.3.4. The 2018 FRA contains a detailed account of recent flood events in 2009 and 2015 that describe the overland flow path of flood water from St. Flannan’s swallow hole. The 2009 event, which was a significant event in excess of a 50-year return period, did not result in flooding on the subject site, and no flow path to the subject site. Notwithstanding the OPW CFRAM flood maps, the findings of the 2018 FRA appear reasonable.
- 8.3.5. The OPW flood maps are under review. The FRA addendum submitted with the appeal includes copies of draft maps prepared by Ryan Hanley Consulting Engineers on behalf of Clare County Council in respect of the post Ennis South Flood Relief Scheme fluvial flood extents. The maps are dated May and June 2022 and indicate that the subject site would not fall within Flood Zone A. The FRA addendum acknowledged that the full benefit of the scheme is not yet quantified and as a conservative measure, it assumes that the subject site is in Flood Zone B. The

Planning Authority did not comment on the draft flood risk maps submitted with the appeal.

8.3.6. The FRA addendum states that a review CFRAM 0.1% AEP fluvial flood depth maps for the site estimate flood depths of <0.25m - 1.0-1.5m. Areas previously predicted to have flood depths of 1.0-1.5m are located where ground levels are below 4.75mOD. This is significantly lower than the finished floor levels of the proposed dwellings (6.2m O.D.).

8.3.7. Section 4.4 of the submitted FRA reviews the proposal against box 5.1 of The Flood Risk Management Guidelines, which relates to The Justification Test which is required to be submitted by an applicant. The Justification Test submitted states that;

1. The site is zoned for residential development, and;
2. The development has been the subject of a flood risk assessment and this assessment has shown;
 - Surface water generated within the site would be managed on-site and would not impact flood risk elsewhere,
 - The layout of the development minimises flood risk to people, property, the economy and the environment,
 - The proposed development will benefit for the Ennis South Flood Relief Scheme and the protection provided by the increased culvert at the St. Flannan's College Swallow Hole. It is assumed that the residual risk in the area will be managed by the Clare County Council through the maintenance of the culvert inlet and overflow culvert.
 - The development is compatible with the wider planning objectives of the area.

8.3.8. I note that the applicant's response to Further Information further confirms that the existing stormwater attenuation tank within the development has sufficient storage capacity for the additional surface water generated by the proposed development.

8.3.9. Overall, having considered all of the information before me, I am satisfied the applicant has adequately addressed the issue of flood risk in the submitted Flood Risk Assessment and Justification Test, whereby it has been demonstrated that the

proposed development will not increase flood risk to other others, through the site design and mitigation measures.

8.3.10. The observers state the flood risk justification test undertaken by the applicant's consultant is biased. I note the FRA's of previous and current planning applications were undertaken by independent professional consultants. As previously noted, the Ennis Municipal Engineer's Further Information report in respect of P.A. reg ref 18/1007 stated that flooding has not occurred on the lower section of 'Hogan's Field' during severe flooding events.

8.3.11. Having regard to the information before me regarding the flood history of the site and the risk of future flooding, the small-scale infill nature of the proposed development, which constitutes a continuation of the existing development, and the finished floor levels of the proposed dwellings, I am satisfied that the proposed development would not increase the risk of flooding within the subject site or on other lands.

8.4. Appropriate Assessment

8.4.1. An Appropriate Assessment Screening Report and determination was carried out by the Planning Authority and concluded that Appropriate Assessment is not required. The site lies 0.7 km to the west of the Lower River Shannon SAC and 2.2 km to the north of the River Shannon and River Fergus Estuaries SPA. The existing environment includes urban drainage systems. The significant distance between the proposed development and any European Sites, and the very weak and indirect pathway is such that the proposal will not result in any likely effects on the European sites.

8.4.2. Having regard to the nature and small scale of the development, its location in a fully serviced and built-up area, and the distances to the nearest European sites and the absence of known pathways to European sites, it is considered that the proposed development would not be likely to have a significant effect individually, or in combination with other plans or projects, on a European site. Appropriate Assessment is not, therefore, required.

8.5. Other Matters

8.5.1. The observers raise concerns that all the dwellings within the 'Hogan's Place' estate will be rented. The site is zoned 'Existing Residential' which allows for small scale

infill development which is appropriate to the character and pattern of development in the immediate area. The development is described as 'social housing', although it is not a Local Authority project. The Planner's Report notes that a Part V agreement has been reached with the applicant. I note from the information within the appeal that Cluid, an Approved Housing Body (AHB), purchased the 24 no. existing houses in the estate and intends to purchase the 5 no. houses proposed under the current application.

- 8.5.2. The Housing Strategy of the County Development Plan states that AHBs play an increasingly important role in meeting needs nationally and in County Clare in recent decades, and that the Council will support the delivery of new social and affordable homes, both directly and in conjunction with AHBs in the county. The strategy sets a target for new social housing units over the plan period 2023-2029 (Policy Objective PO4 of the strategy refers), of which 148 no. unit (18.1%) are to comprise social houses for rent.
- 8.5.3. The proposed development is in accordance with the zoning objective for the site and would contribute to the delivery of the Council's social housing targets and, as such, aligns with national and local housing policy. There is no basis to refuse planning permission on these grounds.

9.0 Recommendation

- 9.1. I recommend that permission be GRANTED for the reasons and considerations set out below;

10.0 Reasons and Considerations

Having regard to the information contained in the Flood Risk Assessment submitted with the application and the addendum report accompanying appeal, including the flood risk justification test, the infill nature of the site in a fully serviced and built up area, and the quantity of open space that would be retained on the site, it is considered that the proposed development would not give rise to a risk of flooding on the site or other lands and would not have an adverse impact on the residential amenity of the area. The proposed development, would therefore, be in accordance with the land use zoning objective of the site, the Section 28 Guidelines 'The

Planning System and Flood Risk Management; Guidelines for Planning Authorities' published by the Department of the Environment, Heritage and Local Government in November 2009 and updated by Circular PL02/2014, and the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions required details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity</p>
2.	<p>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.</p> <p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
3.	<p>Details of materials, colours and textures of all external finishes to proposed dwellings, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual interest</p>

4.	<p>The access road serving the proposed development including the setting out of entrances, paving and surface finishes, signage and lighting shall be carried out and completed in accordance with the requirements of the planning authority.</p> <p>Reason: In the interest of traffic safety and orderly development.</p>
5.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such work and services.</p> <p>Reason: In the interest of public health</p>
6.	<p>Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health</p>
7.	<p>The naming and numbering of the dwellings shall be in accordance with a naming and numbering scheme submitted to, and agreed in writing with, the planning authority prior to occupation of the proposed dwellings.</p> <p>Reason: In the interest of orderly development.</p>
8.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturday and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenity of property in the vicinity.</p>
9.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of work, noise management measures and off-site disposal of construction/demolition waste.</p>

	Reason: In the interest of public safety and residential amenity
10.	<p>Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plan for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p>Reason: In the interests of sustainable waste management.</p>
11.	<p>Prior to the 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 provisions 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 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 of An Bord Pleanála for determination.</p> <p>Reason: To comply with requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
12.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting the development in the area of the planning authority that is provided or intended to be provided or on behalf of the authority in accordance with the terms of the</p>

	<p>Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is 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 to be applied to the permission</p>
13.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>

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.

Ciara McGuinness
Planning Inspector

26th January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference				
Proposed Development Summary	Construction of a social housing development consisting of 5 social housing units and all associated site works.			
Development Address	Hogan's Place, Limerick Road, 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	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	✓		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 10(b)(i) Construction of more than 500 dwelling units - Sub Threshold		Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector:

Date:

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	315419-22	
Proposed Development Summary	Construction of a social housing development consisting of 5 social housing units and all associated site works.	
Development Address	Hogan's Place, Limerick Road, Ennis, Co. Clare	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The nature of the development is not exceptional in the context of the existing residential environment.</p> <p>The proposed development will not result in the productions of any significant waste, emissions or pollutants. Localised constructions impacts will be temporary.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having</p>	<p>The size of the development is not exceptional in the context of the existing residential environment.</p> <p>There is no real likelihood of significant cumulative effects having regard to existing or permitted projects.</p>	No

<p>regard to other existing and/or permitted projects?</p>		
<p>Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The nearest European site is 0.7km to the northeast of the site. It is not considered that the proposed development would be likely to have a significant impact on the European site.</p> <p>The proposed development does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	<p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p> <p style="text-align: center;">✓</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>

Inspector:

Date:

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)