



An
Bord
Pleanála

Inspector's Report

ABP-315466-23

Development	Construction of 54 houses including all ancillary site works and connection to public services.
Location	Friarscourt, Laghtadawannagh, Killala Road, Ballina, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	21793
Applicant	Thawside Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Friarscourt Residents Association
Observers	None
Date of Site Inspection	3 rd May 2023
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 2.51 Ha¹. and is located on the western side of the R314 (Killalla Road), c. 1.5 km north-west from the centre of Ballina, Co. Mayo.
- 1.2. The appeal site is located within a predominantly residential area and there are a number of housing estates in the vicinity, including The Hawthorns (north), and Woodville and Castlefield Manor (east). Leigue Cemetery is located to the south of the appeal site. A recreational park (Killalla Road Neighborhood Park) has been recently permitted under the Part 8 process on lands to the immediate south.
- 1.3. The appeal site is broadly rectangular in shape and is located west/adjoining Friarscourt, an established housing development comprising 42 no. two storey semi-detached houses. The rear gardens of a number of houses within Friarscourt back onto the appeal site.
- 1.4. There are a number of large soil heaps/mounds on the appeal site and parts of the appeal site are overgrown. Topographical levels are indicated as c. 24 metres (OD Malin) to the east of the appeal site rising to 33 metres OD Malin in the centre of the appeal site, corresponding with the location of a large soil heap. A watercourse (Sruffaunbrogue Stream, also known as Knockanelo River) runs along the western and southern boundary of the appeal site. An existing retaining wall is indicated on the site layout plan along the southern boundary of the site with the Sruffaunbrogue Stream.
- 1.5. The undeveloped lands to the immediate north of the appeal site, the majority of the internal road network and the open space within Friarscourt and an area of land at the entrance of Friarscourt are indicated as being within the applicant's ownership/control, as depicted by the blue line boundary on the OS map².

2.0 Proposed Development

- 2.1. The development as initially proposed comprised;

¹ The site area is indicated as 2.9 Ha. on *Drawing PL-11 (Site Layout)* submitted as Further Information to the PA on the 20th June 2022. The red line boundary of the site was revised at Further Information stage to include a temporary construction access and this appears to account for the difference.

² Submitted to the Planning Authority on the 20th June 2022 in response to a request for Further Information.

- Construction of 54 no. two storey houses (15 x 3 bedroom detached houses, 14 x 4 bedroom semi-detached houses, 14 x 3 bedroom semi-detached houses, 6 x 3 bedroom terraced houses and 5 x 2 bedroom houses (i.e. 3 no. terraced houses and 2 no. semi-detached houses). Material finishes to the houses comprised nap plaster for the external walls and black roof slate.
- The internal access road was provided to the north of the site, connecting into Friarscourt.
- Public open space was provided along the southern boundary of the site.

2.2. In response to a request for Further Information the proposed development was amended to comprise;

- Construction of 47 no. two storey houses (11 x 4 bedroom detached houses, 30 x 3 bedroom semi-detached houses and 6 x 2 bedroom semi-detached houses). Material finishes to the houses similarly comprised nap plaster for the external walls and black roof slate.
- Public open space was provided along the northern boundary of the site.
- Terraced housing was omitted from the scheme.
- Speed calming measures were introduced (including within Friarscourt).
- The main junction with the R314 was indicated as being upgraded, in keeping with the original permitted scheme.
- A separate temporary construction access route was proposed along the south of the site/Sruffaunbrogue Stream, eliminating construction traffic from Friarscourt.

2.3. The planning application was accompanied by the following reports/studies³;

- Appropriate Assessment⁴ (prepared by David O' Malley & Associates).
- Appropriate Assessment⁵ (prepared by David O' Malley & Associates).
- Housing Scheme Report (prepared by The Planning Partnership).

³ These reports/studies were submitted as Further Information.

⁴ This report (date stamped 20th June 2022) included an NIS.

⁵ Revised/updated Appropriate Assessment report/NIS submitted to the PA on the 25th October 2022. The number of European sites examined in this NIS is greater compared to the initial NIS submitted to the PA as FI on the 20th June 2022.

- Drainage and Calculation Report (prepared by David O' Malley & Associates).
- Site Specific Flood Risk Assessment (prepared by David O' Malley & Associates).
- Project Management Plan (prepared by Thawside Ltd).
- Stage 1 Road Safety Audit (prepared by Bruton Consulting Engineers Ltd.).
- Invasive Weed Management Plan (prepared by Connacht Weed Control).
- Construction Waste Management Plan (prepared by Thawside Ltd).
- Traffic & Transport Assessment (prepared by Alan Lipscombe Traffic and Transport Consultants Ltd.)
- Landscape Proposals (prepared by Cormac Langan, Landscape Architect).

3.0 Planning Authority Decision

3.1. Request for Further Information

Prior to the decision of the Planning Authority to grant permission for the proposed development, the Planning Authority requested Further Information.

3.1.1. Further Information was requested on the 14th September 2021 as follows:

Re. Housing Layout & Design:

- Item 1 – submit Folio details for site.
- Item 2 – submit masterplan for all lands in applicant's ownership and confirm plot ratio for proposed development.
- Item 3 – submit report confirming compliance with the 12 no. principles contained in the Sustainable Residential Development in Urban Areas Guidelines, 2009.
- Item 4 – confirm why finished floor levels of some houses are lower than road levels within scheme and explain implications of same.
- Item 5 – confirm planning history of site.

(Advisory note included re. separation distances between gables of houses).

Re. Roads & Traffic:

- Item 6 – submit a Stage 1 Road Safety Audit (RSA).
- Item 7 – clarify proposal for the area at entrance to Friarscourt/R314 (which is unfinished).
- Item 8 – confirm if applicant owns or can acquire additional land south of site at House 1 to facilitate widening of road.
- Item 9 – submit Construction Management Plan (construction traffic should not use Friarscourt).
- Item 10 – revise road design to address the propensity for road users to speed and submit details in respect of entrance and shared home zone in accordance with DMURS.
- Item 11 – consider pedestrian and cycle connectivity within the scheme and also in respect of recently permitted Killala Road Neighborhood Park Part 8.

(Advisory note included re. details of any proposed culverts and for application to be made to relevant Statutory Bodies in respect of same).

Re. Open Space & Boundary Treatments:

- Item 12 – address the quantity and quality of open space provision and submit landscape masterplan.
- Item 13 – submit construction details for green areas, including drainage details.
- Item 14 – submit details of proposed boundary treatments.
- Item 15 – confirm details of retaining walls (if applicable).

Re. Water Services:

- Item 16 – submit details of existing public watermains, foul sewer and surface water infrastructure.
- Item 17 – submit details of proposed watermain (in accordance with relevant Irish Water standards).
- Item 18 – submit details of proposed foul sewer (in accordance with relevant Irish Water standards).

- Item 19 – submit details of storm water disposal.
- Item 20 – submit details of oil separator.
- Item 21 – submit details of attenuation tank.
- Item 22 – submit calculations used to determine attenuation tank volume.
- Item 23 – provide pipe size detail of future housing development to north.
- Item 24 – confirm details of connection agreements with Irish Water.
- Item 25 – infrastructure upgrades will be borne by developer.

(Advisory note included re. requirement for separate foul, surface water and water supply connections, and the avoidance of terraced housing in order to eliminate 'backyard services').

Re. General Services/Miscellaneous:

- Item 26 – submit details of public lighting.
- Item 27 – submit Construction and Demolition Management Plan.
- Item 28 – submit details of Sustainable Urban Drainage Systems (SuDS).
- Item 29 – submit services layout drawing.
- Item 30 – submit a method statement for the proposal (to include phasing and construction traffic routes).

Re. Environmental/Ecological Assessment:

- Item 31 – submit eradication plan for Japanese Knotweed.
- Item 32 – submit a vegetation survey.
- Item 33 – submit a mammal survey.
- Item 34 – submit Appropriate Assessment.
- Item 35 – submit discharge rates from site to Knockanelo/Sruffaunbrogue Stream.

(Advisory note included re. the clearing of the site outside nesting periods).

3.1.2. Further Information submitted on 20th June 2022 (following a 3 month time extension).

- Item 1 – Folio details submitted for application site.

- Item 2 – masterplan for all lands in applicant’s ownership submitted. Plot ratio for proposed development set out (see *Drawing PL-11*).
- Item 3 – Housing Scheme Report submitted confirming how the 12 no. principles contained in the Sustainable Residential Development in Urban Areas Guidelines, 2009 have been incorporated within the proposal.
- Item 4 – finished floor levels have been revised (see *Drawing PL-04B*).
- Item 5 – details of planning history of site submitted.
- Item 6 – Stage 1 Road Safety Audit and Traffic and Transport Assessment (TTA) submitted.
- Item 7 – revised proposals submitted regarding the area at entrance to Friarscourt/R314.
- Item 8 – confirmation that that applicant owns the lands south of site at House 1 and the access road. *Drawing PL-03A* indicates a re-designed road layout at this location. Confirmation that it is not possible to widen this section of road.
- Item 9 – Construction Management Plan submitted. Construction traffic will use a temporary access road, confirmation that permanent use of this road as a means of accessing the proposed development is not feasible.
- Item 10 – the internal access road has been redesigned to include traffic calming measures and accords with DMURS.
- Item 11 – cycle lanes have not been incorporated into the scheme but may be provided as part of future phases of development. Provision can be made for connectivity with the recently permitted Killala Road Neighbourhood Park Part 8.
- Item 12 – a landscape masterplan has been submitted indicating open space provision.
- Item 13 – *Drawing PL-13* includes cross sections of proposed green areas and indicated drainage details.
- Item 14 – *Drawing PL-04B* indicates details of proposed boundary treatments.
- Item 15 – details of retaining walls along the southern and western boundaries indicated on *Drawing PL-12*.
- Item 16 – details submitted of existing public watermains, foul sewer and surface water infrastructure.
- Item 17 – design details of proposed watermain indicated on *Drawing PL-13*.

- Item 18 – details of proposed foul sewer submitted.
- Item 19 – details of storm water system submitted.
- Item 20 – details of oil separator submitted.
- Item 21 – details of attenuation tank submitted.
- Item 22 – details of calculations used to determine attenuation tank volume submitted.
- Item 23 – indicative details of pipe size of future housing development to north submitted.
- Item 24 – pre-connection enquiry has been submitted to Irish Water.
- Item 25 – infrastructure upgrades if required will be borne by developer.
- Item 26 – details of public lighting submitted.
- Item 27 – Construction and Demolition Management Plan submitted.
- Item 28 – the proposal accords with Sustainable Urban Drainage Systems (SuDS) principles and details have been submitted (see also response to Items 21 and 22).
- Item 29 – a services layout drawing has been submitted.
- Item 30 – a method statement for the proposal has been submitted.
- Item 31 – a report in respect of Japanese Knotweed on the site and management of same has been submitted.
- Item 32 – the Appropriate Assessment report submitted includes a vegetation survey.
- Item 33 – the Appropriate Assessment report submitted includes a mammal survey.
- Item 34 – Appropriate Assessment screening and **NIS submitted**.
- Item 35 – discharge rates from site to Knockanelo/Sruffaunbrogue Stream submitted.

In response to the advisory notes on the FI request the applicant's response states that details of culverts, retaining walls and boundary treatments have been included in the Traffic Management Plan, and that the previously proposed terraced housing has been omitted.

3.1.3. As the applicant's response to the FI request included the submission of an NIS the applicant was subsequently requested on the 14th July 2022 to submit notice of same

in accordance with Art. 240 of the Planning and Development Regulations, 2001, as amended. A number of advisory notes concerning the design and layout of the scheme were also included in this request. Furthermore, the FI submitted on the 20th June 2022 was deemed significant and the applicant was requested to also submit revised public notices in accordance with Art. 35 of the Planning and Development Regulations, 2001, as amended.

3.1.4. Revised public notices were submitted to the PA on the 29th July 2022. The submission of revised public notices was accompanied by information addressing the issues raised by the PA in the attached advisory notes, which included;

- Revisions to Houses on sites 1, 14, 15, 22, 30 and 38.
- Redesign of elevations to House Types C1 and C2 (dual frontage provided).
- Omission of House Type B1.
- Traffic calming measures indicated.
- Revision to boundary treatment to area of public open space.

3.1.5. The PA subsequently requested Further Information (see para 3.2.2 below for details of same) in respect of the NIS on the 21st September 2022 in accordance with Art. 243 of the Planning and Development Regulations, 2001, as amended.

3.1.6. The applicant submitted revised public notices and further amendments to the proposal. Revised public notices and further amendments to the scheme were submitted to the PA on the 25th October 2022. Amendments included;

- Provision of riparian strip to river, minor revisions to houses, roads and boundaries on foot of the incorporation of the riparian strip and amendment to junction with R314.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The first report of the Planning Officer notes that the principle of the proposed development is acceptable at this location. The report generally reflects the issues raised in the Further Information request.

Further Information Recommended.

3.2.2. The second report of the Planning Officer notes deficiencies in relation to the NIS which was submitted by the applicant at Further Information stage. Regarding the NIS, the report of the Planning Officer specifically notes –

- the absence of a habitat map of the application site.
- confirmation as to whether Killala Bay/Moy Estuary SAC and Killala Bay/Moy Estuary SPA are being brought forward into the NIS.
- there is no hydrological connection between the application site and the River Moy SAC as stated, Knockanelo/Sruffaunbrogue Stream discharges to Killala Bay/Moy Estuary and not the River Moy SAC as indicated in the report.
- species listed as QI of the River Moy SAC maybe associated with the local stream and migrate through the Moy Estuary where this stream discharges to.
- lack of detail around sediment control measures.
- absence of reference to Japanese Knotweed Management Plan in NIS and absence of detail around measures to control same;
- requirement for a buffer between rear garden and adjacent watercourse.

An advice note was also included noting the following;

- The development was revised to 47 no. houses however this was not reflected in the public notices, which refers to 54 no. houses.
- Concerns that the layout and design of the scheme does not provide a usable, surveilled open space.
- Culverting the stream is not a desirable option from an ecological perspective.

- Incorrect references to townland names and directional references regarding boundaries on site should be corrected and submitted as part of the revised NIS.
- The Road Safety Audit identified the need for traffic calming along existing access road. Details to be provided of proposed works along access road, including any drainage required.
- It is recommended that the junction at the R314 should be modified to comply with DMURS, existing radius at junction does not comply and must be reduced.
- There is a lack of information regarding upgrades to existing water main and foul sewer infrastructure to accommodate this development.
- A separate drainage system should be installed whereby water from roofs, roads, footpaths and all other paved areas shall be discharged to the surface water drainage system.
- No details regarding a pre-development connection query/agreement with Irish Water is evident on file.

3.2.3. The final report of the Planning Officer notes reiterates that the principle of residential development is acceptable at this location and that there are no outstanding issues in the context of submissions/reports which have been received in relation to the proposal having regard to the amendments which have been made to the proposal.

3.2.4. An Appropriate Assessment report is contained in the report of the PA which concludes that all identified potential pathways are robustly blocked through appropriate mitigation measures and that the proposed development will not adversely affect the integrity of any European site.

3.2.5. Other Technical Reports

Initial application -

Area Engineer – Further Information recommended in respect of the road layout to address the potential for speeding; pedestrian/cycle connectivity; open space layout/design; boundary details; public lighting; Construction Management Plan; and the unfinished area at the entrance of Friarscourt and the R314.

Roads Design – Further Information recommended regarding the possibility of the applicant acquiring additional lands in order to widen the access road; construction access arrangements; and the requirement for a Road Safety Audit.

Environment, Climate Change and Agriculture Office – Further Information recommended regarding surface water calculations and SuDS.

Water Services - Further Information recommended in respect of existing and proposed water supply, foul sewer and surface water infrastructure; details of oil separator; and details of proposed attenuation tank.

Health and Safety Authority (HSA) – report notes that the HSA does not recommend against granting the proposed development.

Subsequent Reports (in relation to initial FI received) –

Area Engineer – recommends that conditions are attached to any grant of permission requiring details of traffic calming measures (including drainage details of same) along existing road which were recommended in the RSA; and that the radius of the junction with the R314 should be modified/reduced to comply with DMURS.

Water Engineer – recommends that conditions are attached to any grant of permission requiring CCTV survey of existing foul sewer network in Friarscourt; that the foul and surface water drainage systems are separate; that the surface water attenuation system be designed to restrict storm water discharge from the site to greenfield level of 2l/sec per hectare; that normal levies for surface water drainage apply; and that connection agreements are obtained from Irish Water.

Environment – report notes that the level of detail in the NIS in respect of surface water management and protection is not sufficiently detailed to demonstrate that the development will not result in significant effects on the local surface water network and therefore have significant effects on the conservation objectives of downstream Natura 2000 sites. In particular the report refers to the absence of a habitat map; connectivity between the application site and Killala Bay/Moy Estuary SAC and Killala Bay/Moy Estuary SPA; clarity in relation to sediment control measures; the management of Japanese Knotweed on the site; and the requirement for a buffer between the rear gardens of houses within the proposal and the stream.

Subsequent Reports (in relation to second FI received) –

Environment – report notes that the proposal has been revised to provide a 5 metre riparian buffer with the stream; that the NIS has been revised to clarify that the site is hydrologically connected to Killalla Bay/Moy Estuary SAC, and not River Moy SAC as previously indicated; that sediment control measures have been enhanced; that a temporary construction access is now proposed; that the revised Japanese Knotweed plan has clarified that Japanese Knotweed will be excavated from the site followed by a 3 year programme of treatment and monitoring; and recommends a specific sampling regime in respect of surface water monitoring.

Road Design – conditions recommended regarding road and footpath design/standard; surface water; public lighting; signage/markings; and car parking.

3.3. Prescribed Bodies/Government Departments

Department of Housing, Local Government and Heritage (DoHLGH) – Further Information recommended in relation to a treatment program for Japanese Knotweed (a licence is required from the NPWS to remove Japanese Knotweed from the site); the potential for the proposal to affect pollution sensitive species and habitat in Killalla Bay/Moy Estuary SAC and as such an assessment under Article 6(3) of the Habitats Directive must be submitted, which include the measures listed in the Invasive Species Management Plan to address the spread of Japanese Knotweed downstream into the SAC; that River Moy SAC, which is downstream of the outfall location of the watercourse may need to be assessed; that post-construction impacts from the proposal need to be addressed in terms of the capacity of the relevant wastewater treatment plan; if possible site clearance should be outside nesting periods; if possible green areas should be created/align with the 'All-Ireland Pollinator Plan'; a mammal survey should be undertaken; mitigation measures cannot be taken into account at screening stage of Appropriate Assessment and determinations in respect of Appropriate Assessment cannot contain lacunae.

3.4. Third Party Observations

The report of the Planning Officer summarises the main issues raised in the third-party observations as follows:

- Concerns regarding increased traffic through Friarscourt.

- Inadequacy of existing car parking within Friarscourt, which would be affected by proposal.
- Lack of public amenity areas.
- Information contained in traffic survey flawed.
- Traffic impact/safety concerns.
- Separate access required.

4.0 Planning History

Appeal Site:

PA. Ref. 03/702432 – Permission GRANTED for 138 no. houses (this permission was partially implemented and relates to a larger site which includes the site of the current planning application/appeal).

PA. Ref. 18/1026 – Permission GRANTED for 2 no. houses (this permission relates to lands outside the red line boundary of the current planning application but is within the red line boundary of the site associated with PA. Ref. 03/702432).

PA. Ref. 20/519 – Permission GRANTED for 6 no. houses (this permission relates to lands immediately west of the R314).

5.0 Policy Context

5.1. National Policy

5.1.1 National Planning Framework 'Project Ireland 2040'

Relevant Policy Objectives include:

- **National Policy Objective 3a:** Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- **National Policy Objective 4:** Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- **National Policy Objective 13:** In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- **National Policy Objective 33:** Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

5.2 Ministerial Guidelines

5.2.1 Having regard to the nature of the proposed development and to the location of the appeal site, I consider the following Guidelines to be pertinent to the assessment of the proposal.

- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024).
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021).

- Design Manual for Urban Roads and Streets (2019).
- Urban Development and Building Height Guidelines, Guidelines for Planning Authorities (2018).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities (2010).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

5.3. Development Plan

5.3.1. The relevant Development Plan is the Mayo County Development Plan 2022-2028.

5.3.2 The appeal site is not zoned under the Mayo County Development Plan 2022 – 2028. Objective SSO13 of the Mayo County Development Plan however provides that land use zoning provisions of the existing town and environs development plan for Ballina shall continue to be implemented on an interim basis until such time as a local area plan is adopted, whilst also having regard to any draft local area plan. I note that the appeal site is zoned ‘Phase 1 Residential’- ‘R2 Existing Residential (Low Density)’ under the Ballina and Environs Development Plan 2009 – 2015 (as varied and extended). The appeal site is zoned ‘New Residential’ in the Draft Ballina Local Area Plan 2024-2030, the zoning objective of which is *‘to provide for high quality new residential development and other services incidental to residential development’*.

5.3.3. The provisions of the Mayo County Development Plan 2022-2028 relevant to this assessment are as follows:

Volume 1 – Written Statement:

Chapter 2 (Core Strategy)

- Objective CSO3
- Objective SSO2

- Objective SSO13
- Objective SSO14

Chapter 3 (Housing)

- Objective TVHO1
- Objective TVHO6
- Objective TVHO7
- Objective TVHO8

Chapter 7 (Infrastructure)

- Objective INO17

Chapter 9 (Built Environment)

- Objective BEP24

Chapter 10 (Natural Environment)

- Objective NEP8

Volume 2 - Development Management Standards:

- Section 3.4 Permeability and Sustainable Mobility
- Section 4.5 – Layout
- Section 4.5.1 – Safer/Smarter Travel
- Section 4.5.2 – Homezones
- Section 4.5.5 – Overlooking
- Section 4.7 – Public Open Space
- Section 4.8 – Private Open Space
- Section 4.9 – Boundary Treatments
- Section 4.10 – Landscaping
- Section 4.11 – Refuse/Bin Storage
- Section 4.12 – Materials and Finishes
- Section 7.5 – Road and Traffic Assessments
- Section 7.7 – Access for Housing and Other Developments

- Section 7.12 – Parking Standards and Dimensions

5.4. Natural Heritage Designations

- Killala Bay/Moy Estuary SAC (Site Code: 000458) - c. 1.5 km east.
- Killala Bay/Moy Estuary SPA (Site Code: 004036) – c. 1.9 km north-east.
- Killala Bay/Moy Estuary pNHA (Site Code: 000458) – c. 1.5 km east.
- River Moy SAC (Site Code: 002298) – c. 1.6 km south-east.

5.5. EIA Screening

See Form 1 and 2 (attached). Having regard to the limited nature and scale of development, as well as the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended, there is no real likelihood of significant effects on the environment arising from the proposed development. It is considered that the issues arising from the proximity/connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment) as there is no likelihood of other significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

I note that the application documentation refers to the potential development of lands further north of the appeal site which are within indicated the applicant's ownership, and taken together with the current proposal the applicant refers to the provision of 193 no. residential units. With the exception of the current application/appeal, there are no valid permissions or applications for residential development within the wider landbank. On this basis I do not consider that the issue of cumulative impact in the context of EIA arises.

I consider that any issues arising from the proximity/connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment).

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal by Friarscourt Residents Association against the decision to grant permission. The grounds for appeal may be summarised as follows;

- By accessing through Friarscourt the proposed development would present a danger to children. The houses within Friarscourt are not bound by walls/fences and the green area is on the opposite side of the road. The feasibility of an alternative access arrangement to serve the proposal has not been fully explored. A separate access should be provided to cater for the proposed development, and not the use of the existing access through Friarscourt.
- The traffic assessment was carried out during Covid when traffic volumes were light and as such the assessment failed to accurately capture the traffic volumes using the existing road network. An amended traffic assessment is required in order to capture accurate information in relation to traffic flows.
- The proposal does not present the full extent of potential development in the area as the application site represents c. one third of the lands owned by the applicant. Traffic concerns raised will be exacerbated when future development is carried out within the applicant's wider landholding.
- Vibrations from construction activity and traffic could have implications for the houses within Friarscourt which are affected by pyrite.
- The layout of the road network contains pinch points, is substandard and does not make adequate provision for heavy vehicles. Turning circles are inadequate for trucks, bin lorries and fire tenders.
- Traffic will speed in spite of the traffic calming measures proposed (raised tables).

6.2. Applicant Response

The applicant has submitted a response in respect of the third party appeal submission.

Introduction/Rational for Proposal:

- The proposal is infill in nature and seeks to continue a planned and permitted housing estate (PA. Ref. 03/702432 refers), whilst having regard to potential future development.

- Both the National Planning Framework (NPF) and the Sustainable Residential Development in Urban Areas Guidelines encourage infill development in towns and cities.
- There are no grounds in the appeal that would warrant a reconsideration of the principle of the permitted development, with the appellant's concerns relating to access.
- The access arrangement advocated by the appellant, that being the use of the temporary construction route as a permanent access would by-pass a completed phase of the overall landbank would not represent proper planning for the area and would be a retrograde approach to urban housing design.
- There is ample capacity in the local road network to cater for the proposal. The junctions within the estate are 90% underutilised, or 75% underutilised when the proposal is considered.
- The proposal will reduce the dominance of the car and give more priority to pedestrians and cyclists through DMURS measures, which are currently absent.
- An outline masterplan has been prepared to provide an overview of the potential long-term development of the overall landbank.
- The scale, mix and design of the proposed houses is in keeping with the original plans for the site permitted in 2004 and the proposal balances the achievement of an appropriate density whilst respecting local patterns of development. The proposal accords with the Best Practice Urban Design Manual and Sustainable Residential Development in Urban Areas Guidelines and the NTA's Permeability Best Practice Guide and National Sustainable Mobility Policy.
- The proposed houses and the gardens are generous in size.
- The proposal serves to address housing need in the area.
- Enabling works have been completed including the creation of boundaries.
- The applicant has addressed a number of concerns regarding roads and traffic which will serve to enhance the existing and the proposed development.

- The appeal site is identified as Phase 1 – Residential in the Ballina and Environs Development Plan 2009 – 2015 (as varied and extended).

Re. Grounds of Appeal:

- The appellant accepts the principle of development on the site. The appeal relates to access and no other material grounds of appeal are raised.
- The applicant has provided details of possible future phases of development within the wider landbank however this has been done only to show that the proposal would not prejudice the future development of the wider landbank. The presence of potential future phases of development within the landbank should not be used as a material consideration in determining the current proposal and the current proposal can operate independently of same.
- The Ballina and Environs Development Plan indicated a link road to the north of the landholding (Objective T16 refers) which may also provide links to the overall landholding however the development of the appeal site and remaining lands is not reliant or prejudicial to this road.
- Regrading precedent, the appeal site was previously part of a larger permitted scheme of 140 units, including the majority of the appeal site and the existing Friarscourt development. The residents of Friarscourt would have been aware of the future intentions for site when they purchased their properties and the current proposal does not represent a change to the established strategy for the area.
- The applicant has addressed the concerns raised in relation to construction traffic. Construction traffic will not interact with the existing estate except at the entrance onto Killala Road. The proposal could however be permitted in the absence of such an arrangement as the routing of construction traffic through Friarscourt would be the subject of construction and traffic management plans and is a common practice.
- It is not reasonable or tenable to by-pass Friarscourt as a means of accessing the appeal site or the wider landbank. Such an approach would result in a reduced standard of amenity for existing and future residents and would result in ghettoization. Permeability and connectivity to and through housing

schemes is a fundamental design principle. Segregating the proposed scheme from Friarscourt is inappropriate.

- The issue is not the quantity of cars but the design of roads and junctions. The proposal, which has been amended at FI stage, offers benefits to Friarscourt in this regard (i.e. the inclusion of raised tables and the upgrade of the junction with Killala Road). The proposal has been designed to slow traffic speed and create a safe environment for pedestrians and cyclists.
- As noted in the Traffic and Transport Assessment (TTA) submitted at Further Information stage, the proposed development would result in the usage of the Friarscourt junction increasing from 10% to 22% of its capacity in 2024 (reducing spare capacity from 90% to 78%). There is therefore significant capacity for additional traffic movements within the existing road network. The typically accepted threshold for being 'at capacity' is where 85% of a junctions capacity is reached. There is no substance to the suggestion that there is insufficient road / junction capacity to accommodate the traffic arising from the subject scheme.
- The proposal promotes non-vehicular transport through enhancing the road layout for other users and also providing links to the Killala Road Neighbourhood Park and associated greenway/path.
- The congestion referred to be the appellant within Friarscourt appears to be influenced by inappropriate car parking within/on the carriageway.
- The junction in question was originally designed to accommodate the entire masterplan area and permitted for accessing 140 no. dwellings. The proposal is therefore well within the scale of the original design.
- The applicant has proposed to enhance road junctions, to provide for more DMURS appropriate treatments, supporting a more pedestrian/cyclist/child friendly environment and promoting lower speeds.
- Congestion would not occur to any tangible degree, rather traffic movements would be required to yield to other modes.
- Regarding the effects of Covid 19 on traffic figures, an addendum to the TTA (attached to this appeal submission) clarifies traffic projection methodologies and allowance for the effects of Covid 19.

- The TTA and the Road Safety Audit demonstrate that there is no barrier to permitting the proposal on the grounds of traffic/traffic safety.
- In relation to children playing, the planning history on the site related to 140 no. units whereas the proposal when considered in conjunction with Friarscourt results in 89 no. units. Enhancements to the road layout will result in a more child friendly environment. Roadways are necessary part of any housing scheme and vehicles cannot be removed from residential environments.
- Substantial public open space is provided within the proposed scheme and the proposal would not undermine the availability of existing amenities.
- In respect of HGVs, the proposal has been designed in accordance with DMURS and has been designed to encourage a less car dominated environment.
- The stream adjacent to the site is no longer accessible following a change to the layout of the scheme negating any safety issues.
- There is no basis for refusing the proposal on the basis of the presence of pyrite.

6.3. Planning Authority Response

None received.

6.4. Observations

None received.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeal and having inspected the site, I consider that the main issues for consideration are those raised in the appeal, that being access and traffic safety. Issues arising and Appropriate Assessment are also addressed in this report.

7.1.1. Regarding the principle of the proposed development in the context of land-use zoning, the appeal site is not zoned under the Mayo County Development Plan 2022

– 2028 however Objective SSO13 of the Mayo County Development Plan provides that the land use zoning provisions of the existing town and environs development plan for Ballina⁶ shall continue to be implemented on an interim basis until such time as local area plans are adopted for these towns, whilst also having regard to any draft local area plan. I note that the appeal site is zoned ‘Phase 1 Residential’ – ‘R2 Existing Residential (Low Density)’ under the Ballina and Environs Development Plan 2009 – 2015⁷. I further note that the appeal site is zoned ‘New Residential’ in the Draft Ballina Local Area Plan 2024-2030. On the basis of the foregoing I consider the principle of the proposed development to be acceptable.

7.2. Access and Traffic Safety

- 7.2.1. The crux of the appellant’s case is that the proposed access arrangement through Friarscourt would give rise to traffic safety issues and that an alternative access arrangement should instead be used, specifically the proposed temporary construction access (to the south of the site). The appellant also contends that the information which informed the TTA is inaccurate, that the development of future phases of the applicant’s landbank will exacerbate traffic issues, that the layout of the proposal from a roads perspective is substandard, and that vehicles within the scheme will have a propensity to speed.
- 7.2.2. In response, the applicant states that by-passing Friarscourt and using an alternative access would be an inappropriate design response and would result in Friarscourt becoming ghettoised. The applicant notes that there is ample capacity in the local road network to cater for the proposal and that the junction with the R314 was originally designed to accommodate 140 no. dwellings, whereas the proposal when considered in conjunction with Friarscourt results in 89 no. units. In relation to the issue of road design, the applicant notes that the proposal is compliant with the principles of DMURS, provides for enhancements to junctions and traffic calming measures and will result in a more pedestrian/cyclist/child friendly environment.
- 7.2.3. I note that the appeal site and Friarscourt previously formed part of a larger development which was permitted on foot of PA. Ref. 03/702432 and that to date Friarscourt is the only part of the wider previously permitted development which has

⁶ This objective also pertains to the settlements of Castlebar and Westport.

⁷ As extended in accordance with the provisions of Section 11A of the Planning and Development Act, 2000, as amended.

been constructed. The applicant refers to this issue in response to the third party appeal and states that the local road network and junction with the R314 is underutilised and therefore has adequate capacity to cater for the current proposal. A Traffic and Transport Assessment (TTA) accompanied the planning application and included a review of existing and future traffic flows, forecast of traffic volumes generated by the proposal and details of the existing road network and the junction with the R314. The traffic impact of the proposed development was assessed using PICADY junction analysis software and concluded that the junction with the R314 will operate well within capacity.

- 7.2.4. The appellant contends that traffic assessment was carried out during Covid when traffic volumes were light and as such data on traffic is inaccurate. In response to this issue the applicant has included an addendum to the TTA in their appeal submission which states that the traffic counts were not undertaken at a time when travel restrictions were in place. Furthermore, data from a location on the N26 between Foxford and Ballina where Transport Infrastructure Ireland (TII) maintain a continuous count has been referenced in order to demonstrate that the traffic count data used is representative, in this regard the applicant has used traffic count data for the same period in 2019 (i.e. prior to Covid) which indicates a 2% difference. The applicant contends that the traffic count taken in 2021 was not significantly impacted upon by Covid, and that furthermore the figures were adjusted +20% to take account of seasonal variations and then forecast to the projected design year of 2039 using TII traffic forecasts. On the basis of the information submitted by the applicant in the addendum to the TTA I am satisfied that the baseline information used for forecasting junction capacity is robust, and I am satisfied that the existing road network, including the junction with the R314 has adequate capacity to cater for the proposed development.
- 7.2.5. The appellant raises concerns in relation to the development of future phases of the applicant's landbank and states that this would exacerbate the traffic issues raised. The applicant states that possible future phases of development within the wider landbank have been indicated only to show that the proposal would not prejudice the future development of the wider landbank and the current proposal can operate independently of same. Whilst I note that the applicant's landholding extends to include lands to the north of the appeal site and that it may be the applicant's intention

to seek permission for the development of this area in the future, in my opinion it would not be reasonable or feasible for an assessment of the traffic impact of the potential future development of this wider area to be undertaken in the context of the current proposal. I note however that any future proposal will be similarly required to demonstrate that the proposed access arrangement is adequate and that the local road network can effectively cater for same.

- 7.2.6. The appellant advocates that the proposed development should use the temporary construction access route as the main access to serve the proposed development once operational. As addressed above it has been demonstrated that the existing road network, including the junction with the R314, has adequate capacity to cater for the proposed development, traffic calming measures are also proposed within Friarscourt, and in my opinion there is no justification for the use of a circuitous access route by-passing Friarscourt. I further note that such an approach would be counter to the objectives of the Mayo County Development Plan 2022 – 2028 in relation to achieving permeability and connectivity within residential developments (see Objective BEP24, Section 3.4 and 4.5 Development Management Standards, Volume 2 Mayo County Development Plan), and that such an access arrangement would result in the access route being unsurveilled, thereby creating a poor urban environment.
- 7.2.7. In relation to road safety and the layout of the proposal I note that a Stage 1 Road Safety Audit (RSA) was requested by the Planning Authority at Further information stage and that this RSA made 2 no. recommendations (i.e. the provision of traffic calming along the existing access road and the replacement of a proposed zebra crossing with a courtesy crossing) which will be incorporated into the proposal. Regarding the use of the scheme by HGVs, bin lorries etc. I note that a autotrack analysis of the proposal was undertaken and indicates that larger vehicles can adequately manoeuvre within the scheme.
- 7.2.8. In summation, having regard to the demonstrated capacity in the local road network, including the junction with the R314, and the design and layout of the proposal, I am satisfied that that the proposed development will not result in any significant traffic safety issues.

7.3. Issues Arising

- 7.3.1. **Flood Risk** - A Site Specific Flood Risk Assessment (SSFRA) was submitted by the applicant. The SSFRA concluded that there is no history on flooding on the site and that access and egress routes are highly unlikely to be compromised during flood events. I have reviewed the information on floodinfo.ie and I note that whilst there is no indication of flooding within the appeal site the lands to the south and west of the Sruffaunbrogue Stream where the temporary construction traffic access is proposed are indicated within the 10% AEP Fluvial Flood Extent (i.e. High Probability) and the 1% AEP Fluvial Flood Extent (i.e. Medium Probability) respectively. Whilst the area of flooding lies on the southern and western banks of the Sruffaunbrogue Stream and as such is unlikely to affect the main body of the appeal site there is potential for ecological impacts to occur arising from run-off from the temporary construction access route potentially entering the Sruffaunbrogue Stream with implications for European sites downstream as the construction route is located within this identified flood risk area. This issue is addressed further under paragraph 7.4 Appropriate Assessment.
- 7.3.2. **Institutional Investment** - The Section 28 Guidelines, Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021), issued by the Department of Housing, Local Government and Housing, applies to developments comprising 5 or more houses or duplex units. Having regard to the Section 28 Guidelines in respect of 'Commercial Institutional Investment in Housing', I consider that the development, comprising/including 5 or more own-door units and falling within the definition of structure to be used as a dwelling to which these guidelines applies, should include a condition to restrict the first occupation of these units as outlined by the Guidelines. In the event that the Board are minded to grant permission for the proposed development I recommend that 'Condition RCIIH1' as per the wording provided in the Guidelines is used as it enables the developer to carry out any enabling or preparatory site works, unlike condition RCIIH2, and as the effect in respect of the residential component is the same.
- 7.3.3. **Part V** – Section 96 (1) of the Planning and Development Act, 2000, as amended, states that *'the provisions of this section shall apply to an application for permission for the development of houses on land, or where an application relates to mixture of*

development, to that part of the application which relates to the development of houses on such land’. I note that this provision applies irrespective of whether the appeal site is subject to a specific land use zoning in the Mayo County Development Plan 2022-2028. Should the Board be minded to grant permission for the proposed development a planning condition requiring compliance with Part V of the Planning and Development Act, 2000, as amended should be included.

- 7.3.4. **Pyrite** – the appellant raises concerns in relation to the potential for construction activity and vehicles from the proposed development to adversely affect houses within Friarscourt which are affected by pyrite. Having regard to the distance between the proposal and properties within Friarscourt, I consider that it is unlikely that the proposed development would result structural damage to the houses within Friarscourt. I further note that construction traffic will use a dedicated route circumventing Friarscourt.
- 7.3.5. **Link to Killala Road Neighbourhood Park** – the applicant indicates that the proposal could provide for a connection to the park which was recently permitted under the Part 8 process south of the appeal site. The applicant intimates that this connection could be facilitated at a location south of the entrance to the R314, where an existing disused rail bridge is located. The use of this bridge entails the crossing of the Sruffaunbrogue Stream. Details of this connection are not provided within the application documentation. Furthermore, it is unclear whether the use of this existing bridge would require upgrade works to cater for its use. Importantly, this element of the proposal has not been included and therefore considered in the NIS submitted with the planning application. On the basis of the information submitted with the planning application and the appeal, and noting the absence of reference to this proposal in the NIS which entails the crossing of the Sruffaunbrogue Stream I do not consider that this connection should be permitted, or that a condition requiring its facilitation should be included should the Board be minded to grant permission for the proposed development.
- 7.3.6. **Status of information submitted** - information submitted to the Planning Authority on the 29th July 2022 and the 25th October 2022 was referred to in the report of the Planning Officer as being ‘unsolicited’. I note however that the information submitted to the Planning Authority on these dates was accompanied by revised public notices

and was in response to advisory notes attached to requests for Further Information/information in respect of NIS and as such third parties would have been notified that further information had been submitted in respect of the planning application. I submit to the Board that this information can be considered in the context of this appeal.

7.4. Appropriate Assessment

7.4.1. Stage 1 Screening

7.4.2. Compliance. The requirements of Article 6(3) of the Habitats Directive as related to screening the need for appropriate assessment of a project under Part XAB, Section 177U of the Planning and Development Act 2000, as amended, are considered fully in this section.

7.4.3. Background. The applicant submitted an Appropriate Assessment Screening report for the proposed development (prepared by David O' Malley and Associates) to the Planning Authority. 6 no. European sites within a 15km zone of influence of the appeal site were examined in the Stage 1 Appropriate Assessment Screening report. Following this screening exercise, 3⁸ no. European sites were identified on the basis of there being potential for polluted run-off from the appeal site to be transmitted indirectly via during construction phase and reaching Killala Bay/Moy Estuary SAC, and for disturbance to qualifying interests of Killala Bay/Moy Estuary SAC, Killala Bay/Moy Estuary SPA and River Moy SAC. More specifically potential impacts from the proposed development are identified as, disturbance to otters and badgers at construction and operational phase; the release of sediment to the adjoining stream during the construction phase, which entails the construction of a concrete retaining wall adjacent to the Knockanelo Stream; the release of sediment from earthworks; disturbance and pollution from machinery, and the accidental discharge of construction material into watercourses. The applicant undertook a field survey of the appeal site on the 1st April 2022. A habitat map is included in the Appropriate Assessment Screening report/NIS. The main habitat within the site was identified as comprising 'recolonising bare ground'. The presence of invasive species is identified

⁸ Page 22 of the Appropriate Assessment Screening report refers to 6 no. Europeans site within 15 km of the subject site, 5 no. SACs and 2 no. SPA's, this appears to be a typographical error.

on the site and the report notes that a separate report provides details of treatment and eradication. The applicant's Stage 1 Appropriate Assessment Screening report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. Having reviewed the document, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

- 7.4.4. Supplementary Reports/Studies. An *Invasive Weed Management Plan* was submitted with the planning application. This plan was prepared in response to the presence of Japanese Knotweed located in the south-west corner of the site. The Plan sets out measures for the eradication of the invasive species, specifically the excavation and stockpiling of Japanese Knotweed followed by a herbicide treatment program which will take 10 no. days to complete. Reference is made in the plan to a haul route for transporting Japanese Knotweed within the site. This route is to be detailed in a method statement which will be prepared. The plan also sets out a suite of biosecurity measures to prevent the spread of Japanese Knotweed to other locations within and beyond the site. The plan states that prior to commencement of works on the development a survey of the site will be undertaken to ensure that there is no regrowth. A monitoring program is also proposed for construction and post-construction phases.

A *Project Management Plan* was submitted with the planning application. This plan includes measures to address dust and dirt arising on the site, including dust suppression through water spraying, the erection of hoards, wheel wash provision, the covering of material etc. It is proposed that construction traffic will use a dedicated route which by-passes Friarscourt.

A *Site Specific Flood Risk Assessment* (SSFRA) was submitted by the applicant. The SSFRA concluded that there is no history on flooding on the site; that the risk of fluvial and coastal flooding is remote; that the risk of ground flooding is very low; that access and egress routes are highly unlikely to be compromised during flood events; that the risk from pluvial flooding will be mitigated by the design of the surface water drainage system; and that proposed finished floor levels (FFL) and the invert of infiltration cells are 2.69 metres and 0.458 metres respectively above the modelled level for flood zone

C. I have reviewed the information on floodinfo.ie and I note that whilst there is no indication of flooding within the appeal site the lands to the south and west of the Sruffaunbrogue Stream where the temporary construction traffic access is proposed are indicated within the 10% AEP Fluvial Flood Extent (i.e. High Probability – Flood Zone A) and the 1% AEP Fluvial Flood Extent (i.e. Medium Probability – Flood Zone B) respectively.

7.4.5. Likely Significant Effects. The project is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated as SACs and SPAs to assess whether it may give rise to significant effects on any European site.

7.4.6. The Proposed Development. The development comprises permission for;

- The construction of 47 no. dwellings.
- Connection to services and all associated site works.

The following facilitating works are also proposed.

- The construction of a retaining wall along the adjoining stream to the west⁹ of the appeal site (Sruffaunbrogue Stream) in order to retain proposed increase in ground levels.
- The construction of bridge crossing the Sruffaunbrogue Stream to the west of the appeal site.

7.4.7. Potential Effects of the Proposed Development. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of the implications for likely significant effects on European sites:

- The uncontrolled release of pollutants to ground water and surface water (e.g. run-off, silt, fuel, oils, concrete etc.) and subsequent impacts on water quality

⁹ The Site Layout Plan submitted with the planning application refers to an existing retaining wall along the southern boundary of the site with Sruffaunbrogue Stream. Based on the information submitted it appears that the retaining wall is proposed along the west of the appeal site.

sensitive habitats of Killala Bay/Moy Estuary SAC (Site Code – 000458) and Killala Bay/Moy Estuary SPA (Site Code – 004036), which are connected to the site via the Sruffaunbrogue Stream.

- Potential for the release of contaminated surface water generated by the proposal at operational stage of the proposal and subsequent impacts on water quality sensitive habitats of Killala Bay/Moy Estuary SAC (Site Code – 000458) and Killala Bay/Moy Estuary SPA (Site Code – 004036), via the Sruffaunbrogue Stream.
- Should any bird species which are Special Conservation Interests (SCI) of Killala Bay/Moy Estuary SPA (Site Code – 004036), or another European site use the site for resting, foraging, breeding etc., then the proposed development would have the potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).
- Potential disturbance to mobile QI species of River Moy SAC (Site Code – 002298) in the Sruffaunbrogue Stream i.e. otter, salmon, brook lamprey, sea lamprey and white clawed crayfish, should these species be present, from the loss of feeding, breeding or resting places (riparian habitat) at construction and operational phases of the proposed development. Polluted run-off could also result in fish-kills within the Sruffaunbrogue Stream, affecting otters who prey these fish.
- The release of Japanese Knotweed from the site which could enter the Sruffaunbrogue Stream and reach Killala Bay/Moy Estuary SAC (Site Code – 000458) and Killala Bay/Moy Estuary SPA (Site Code – 004036).

7.4.8. Submissions and Observations. See paragraph 3.3 (above) of this report.

7.4.9. European Sites and Connectivity. A summary of European sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail. I note that the applicant included a greater number of European sites in their initial screening consideration with sites within 15km of the development site considered. There is no ecological justification for such a wide consideration of sites, and I have only included those sites with any

possible ecological connection or pathway in this screening determination. I am satisfied that other European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site or given the absence of any direct hydrological or other pathway to the appeal site.

Table 7.1 - Summary Table of European Sites within a possible zone of influence of the proposed development.

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
Killala Bay/Moy Estuary SAC (Site Code:000458)	<ul style="list-style-type: none"> • Estuaries [1130] • Mudflats and sandflats not covered by seawater at low tide [1140] • Annual vegetation of drift lines [1210] • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] • Embryonic shifting dunes [2110] • Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] • Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] • Humid dune slacks [2190] • <i>Vertigo angustior</i> (Narrow-mouthed Whorl Snail) [1014] • <i>Petromyzon marinus</i> (Sea Lamprey) [1095] • <i>Phoca vitulina</i> (Harbour Seal) [1365] 	c. 1.5 km east of appeal site.	The Sruffaunbrogue Stream flows along the western and southern boundary of the appeal site and connects to Killala Bay/Moy Estuary SAC. Noting the indirect connectivity formed by Sruffaunbrogue Stream a likelihood of significant effects exists.	Y
Killala Bay/Moy Estuary SPA	<ul style="list-style-type: none"> • Ringed Plover (<i>Charadrius hiaticula</i>) [A137] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] 	c. 1.9 km north-east of appeal site.	The Sruffaunbrogue Stream flows along the western and southern boundary of the appeal site	Y

(Site Code: 004036)	<ul style="list-style-type: none"> • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Sanderling (<i>Calidris alba</i>) [A144] • Dunlin (<i>Calidris alpina</i>) [A149] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Curlew (<i>Numenius arquata</i>) [A160] • Redshank (<i>Tringa totanus</i>) [A162] • Wetland and Waterbirds [A999] 		and connects to Killala Bay/Moy Estuary SPA. Noting the indirect connectivity formed by Sruffaunbrogue Stream a likelihood of significant effects exists.	
River Moy SAC (Site Code: 002298)	<ul style="list-style-type: none"> • Lowland hay meadows (<i>Alopecurus pratensis</i>, <i>Sanguisorba officinalis</i>) [6510] • Active raised bogs [7110] • Degraded raised bogs still capable of natural regeneration [7120] • Depressions on peat substrates of the Rhynchosporion [7150] • Alkaline fens [7230] • Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] • Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0] • <i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092] • <i>Petromyzon marinus</i> (Sea Lamprey) [1095] • <i>Lampetra planeri</i> (Brook Lamprey) [1096] • <i>Salmo salar</i> (Salmon) [1106] • <i>Lutra lutra</i> (Otter) [1355] 	C. 1.6 km south-east of appeal site	The point of discharge of the Sruffaunbrogue Stream into the River Moy is upstream of the River Moy SAC and therefore no hydrological connection between the development site and River Moy SAC exists. There is no potential for water sensitive QI associated with River Moy SAC to be impacted upon. Notwithstanding that that Sruffaunbrogue is located upstream of River Moy SAC noting its adjacent location there is potential for aquatic species to travel up the Sruffaunbrogue Stream and reach the development site.	Y

7.4.10. Following an examination of sites within the zone of influence, and upon an examination of the connectivity between the appeal site and these sites (see Table 7.1 above), Killala Bay/River Moy Estuary SAC, Killala Bay/River Moy Estuary SPA, and River Moy SAC have been screened in having regard to the potential connectivity via the Sruffaunbrogue Stream between the appeal site and Killala Bay/River Moy Estuary

SAC and Killala Bay/River Moy Estuary SPA, and noting the potential for mobile species associated with River Moy SAC to travel along the Sruffaunbrogue Stream to the development site.

In terms of the potential for ex-situ effects, the appeal site is located within an urban area and does not represent a favourable habitat for birds species connected with Killala Bay/River Moy Estuary SPA or other SPA's for resting, foraging, breeding etc. In the event that bird species connected with SPA's occasionally use the site there are ample alternative sites in the vicinity. The site similarly would not represent favourable or suitable habitat for Harbour Seal, a QI of Killala Bay/Moy Estuary SAC.

7.4.11. Conservation Objectives of European Sites 'Screened-In'. There is no Conservation Management Plan for **Killala Bay/Moy Estuary SAC**. Killala Bay/Moy Estuary SAC has the following Site Specific Conservation Objective for each of the QI's listed;

'to maintain the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected'.

There is no Conservation Management Plan for **Killala Bay/Moy Estuary SPA**. Killala Bay/Moy Estuary SPA has the following detailed Site Specific Conservation Objectives;

Objective 1: *To maintain the favourable conservation condition of the non-breeding waterbird Special Conservation Interest species listed for Killala Bay/Moy Estuary SPA.*

Objective 2: *To maintain the favourable conservation condition of the wetland habitat at Killala Bay/Moy Estuary SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.*

There is no Conservation Management Plan for **River Moy SAC**. River Moy SAC has the following Site Specific Conservation Objective for each of the QI's listed;

'to maintain the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected'.

7.4.12. Identification of Likely Effects. In light of the above Conservation Objectives, the main elements of the proposal which may give rise to impacts on the European sites listed above are as follows;

Construction Phase Impacts on Killala Bay/Moy Estuary SAC - During the construction phase, there is potential for surface water runoff from site works to temporarily discharge to groundwater and surface water and flow into the SAC. There is the potential for the water quality pertinent to this European Site to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons. Additionally, if not managed appropriately Japanese Knotweed could potentially be released from the site and enter Killala Bay/Moy Estuary SAC. Herbicide used to treat Japanese Knotweed could also enter the SAC. The construction of a bridge crossing the Sruffaunbrogue Stream, which connects to Killala Bay/Moy Estuary SAC, has potential to result in the release of contaminants to the stream. The construction of retaining walls along the Sruffaunbrogue Stream could also result in the release of sediment and contaminants, including concrete to the stream.

Operational Phase Impacts on Killala Bay/Moy Estuary SAC - During the operational phase, effluent from the proposed development will be discharged into the public sewer¹⁰. Surface water from impermeable areas within the proposed development will flow to attenuation areas to the north of the site. It is proposed to use an oil separator. There is therefore no potential for the water quality pertinent to this European Site to be negatively affected by the proposed development during the operational phase.

Construction Phase Impacts on Killala Bay/Moy Estuary SPA – During the construction phase, there is potential for surface water runoff from site works to temporarily discharge to groundwater and surface water and flow into the SPA, with consequent potential for water sensitive habitat/habitat supportive of SCI associated with Killala Bay/Moy Estuary SPA to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons. Additionally, if not managed appropriately Japanese Knotweed could potentially be released from the site and enter Killala Bay/Moy Estuary SPA. Herbicide used to treat Japanese Knotweed could also enter the SPA. The construction of a bridge crossing the Sruffaunbrogue Stream, which connects to Killala Bay/Moy Estuary SPA, has potential to result in the release of contaminants to the stream. The

¹⁰ Information contained on the Uisce Eireann website (Annual Environmental Report 2020) in respect of Ballina WWTP states that the capacity of the Ballina WWTP is not expected to be exceeded in the next 3 years.

construction of retaining walls along the Sruffaunbrogue Stream could also result in the release of sediment and contaminants, including concrete to the stream.

Operational Phase Impacts on Killala Bay/Moy Estuary SPA – the appeal site is has a low habitat value and as such there is therefore no potential for SCI associated with this European Site to be negatively affected by the proposed development during the operational phase in terms of disturbance. Additionally, the drainage regime on the site as described above under ‘operational phase impacts on Killala Bay/Moy Estuary SAC, result in there being no potential for the water quality pertinent to this European Site to be negatively affected by the proposed development during the operational phase.

Construction Phase Impacts on River Moy SAC – mobile species associated with River Moy SAC (i.e. otter, salmon, sea lamprey, brook lamprey and white-clawed crayfish) could travel along the Sruffaunbrogue Stream to the development site. Should these species be present in the Sruffaunbrogue Stream, construction activity could cause disturbance to feeding, breeding etc. Polluted run-off entering Sruffaunbrogue Stream could also affect these species, should they be found in the Sruffaunbrogue Stream.

Operational Phase Impacts on River Moy SAC - The point of discharge of the Sruffaunbrogue Stream into the River Moy is upstream of the River Moy SAC and therefore no hydrological connection between the development site and River Moy SAC exists. There is therefore no potential for the water quality pertinent to this European Site to be negatively affected by the proposed development during the operational phase. Should mobile species associated with River Moy SAC be present in the Sruffaunbrogue Stream, activity during the operational phase of the proposed development could result in disturbance to these species.

In the absence of mitigation, the proposed development has the potential to result in negative impacts on Killala Bay/Moy Estuary SAC, Killala Bay/Moy Estuary SPA and River Moy SAC. I consider that such impacts could be significant in terms of the stated conservation objectives of Killala Bay/Moy Estuary SAC, Killala Bay/Moy Estuary SPA and River Moy SAC when considered on their own in relation to the discharge of polluted run-off to groundwater and surface water which could flow into the Killala Bay/Moy Estuary SAC and Killala Bay/Moy Estuary SPA, with consequent potential for water sensitive habitat/habitat supportive of QI/SCI associated with Killala Bay/Moy

Estuary SAC and Killala Bay/Moy Estuary SPA, and in relation to the potential for the proposed development at both construction and operational phase to result in adverse effects on mobile species associated with River Moy SAC and which may be present within Sruffaunbrogue Stream.

In-combination Impacts. There are no recent planning applications for the surrounding area that share a direct link with the subject site.

A summary of the outcomes of the screening process is provided in the screening matrix Table 7.2.

Table 7.2 - Summary Screening Matrix				
European Site	Distance to proposed development/ Source, pathway receptor	Possible effect alone	In combination effects	Screening conclusions:
Killala Bay/Moy Estuary SAC (Site Code 000458)	c. 1.5 km east of appeal site.	During the construction phase there is potential for surface water runoff from site works to temporarily discharge to groundwater and surface water and reach the SAC. There is the potential for the water quality pertinent to this European Site to be negatively affected by contaminants, from site clearance and other construction activities and also from the release of hydrocarbons. There is also potential for the release of Japanese Knotweed from the site to the SAC and for herbicide used to treat	No effect	Screened in for AA

		Japanese Knotweed to enter the SAC.		
Killala Bay/Moy Estuary SPA (Site Code 004036)	c. 1.9 km north-east of appeal site.	<p>During the construction phase, there is potential for surface water runoff from site works to temporarily discharge to groundwater and surface water and flow into the SPA, with consequent potential for water sensitive habitat/habitat supportive of SCI associated with Killala Bay/Moy Estuary SPA to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons.</p> <p>There is also potential for the release of Japanese Knotweed from the site to the SPA and for herbicide used to treat Japanese Knotweed to enter the SPA.</p>	No effect	Screened in for AA
River Moy SAC (Site Code 002298)	c. 1.6 km south-east of appeal site	Should mobile species which are QI of River Moy SAC be present in the Sruffaunbrogue Stream, construction activity and activity at operational phase could cause disturbance to feeding, breeding etc. The water quality of Sruffaunbrogue Stream could be affected through the release	No effect	Screening in for AA

		of contaminated run-off which could adversely affect mobile species which are QI of River Moy SAC should they be present in the stream.		
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7.4.13. Mitigation Measures. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

7.4.14. Screening Determination. 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 **could have a significant effect** on Killala Bay/Moy Estuary SAC, Killala Bay/Moy Estuary SPA and River Moy SAC in view of the Conservation Objectives of these sites, and Appropriate Assessment is therefore required.

7.4.15. **Stage 2 – Appropriate Assessment**

7.4.16. Article 6(3). The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act, 2000, as amended, are considered fully in this section. The areas addressed in this section are as follows:

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

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

7.4.18 Screening The Need for Appropriate Assessment. Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in-combination with other plans or projects will not have a significant effect on the following European sites:

- Killlala Bay/Moy Estuary SAC (Site Code: 000458)
- Killala Bay/Moy Estuary SPA (Site Code: 004036)
- River Moy SAC (Site Code: 002298)

The possibility of significant effects on other European sites has been excluded on the basis of objective information and noting that there is no possible ecological connection or pathway between the appeal site and other Natura 2000 sites surrounding the proposed development. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

7.4.19. The Natura Impact Statement. A NIS, prepared by David O' Malley & Associates examines and assesses potential adverse effects of the proposed development on Killlala Bay/Moy Estuary SAC, Killlala Bay/Moy Estuary SPA and River Moy SAC. The NIS identifies the main potential impact from the proposed development on Killlala Bay/Moy Estuary SAC, Killlala Bay/Moy Estuary SPA and River Moy SAC as being the potential for pollution to enter nearby and enter Killlala Bay/Moy Estuary SAC affecting aquatic dependent QI's, and for potential disturbance to be caused to SCI of Killlala Bay/Moy Estuary SPA and QI of River Moy SAC. The NIS includes an examination of recent planning applications where permission has been granted in the vicinity of the appeal site. I note that there are no recent planning applications for the surrounding area that share a direct link with the subject site. A review of plans is also included in the NIS. The NIS states that the proposed development, by itself or in combination

with other plans or projects, in light of best scientific knowledge, will not result in a significant impact on Killala Bay/Moy Estuary SAC or any other Natura 2000 site.

7.4.20. The NIS refers to mitigation measures which will be adhered to. Measures are proposed for the construction and operational phase of the proposed development and include;

Re. Disturbance:

- Works should be restricted to daylight hours.
- Noise levels on plant machinery will operate in line with BS 5228-1:2009.
- All plant and equipment for use will comply with Statutory Instrument No 359 of 1996 'European Communities (Construction Plant and Equipment) (Permissible Noise Levels) Regulations 1996'.
- Plant will be chosen to avoid significant low frequency noise emissions which increase nuisance potential. Noisier plant will be positioned to optimise screening by other plant. Plant machinery will be turned off when not in use.
- Operating machinery will be restricted to the proposed development site boundary.

Re. Water Quality:

- The inclusion of a 3 metre wide riparian corridor along the watercourse Knockanelo Stream
- In respect of the construction of temporary crossing of the stream;
 - establishment of temporary site access and hoarding.
 - establishment of appropriate centre lines and levels.
 - fabricate steel components to form bridge structure.
 - using mobile crane, lift fabricated components into place, aligning with centre lines and levels. Ensure components are installed on a firm and level base
 - install floor plates and handrails after initial install of primary structure.
 - fabricate entry and exit ramps to allow vehicle access to bridge.
 - complete installation by forming temporary fencing and hoarding around bridge.
 - remove plant and establish temporary works access to main site.
 - upon completion of the works, the temporary bridge access will be removed.
 - no interaction with both the stream bed, banks and water course will occur during the installation of the temporary bridge structure.

Re. Pre-Construction:

- All machinery should be jet-washed prior to arrival on site to ensure there is no cross contamination.
- The contractor will be responsible for selecting the location of construction compounds. These compounds should not be located in the vicinity of the stream.

Re. Construction Set-Up:

- Machinery depots and site offices should be located as far away as possible from the watercourse. Foul drainage from the site offices and facilities will be properly treated and removed to a suitable treatment facility.

Re. Sediment Control:

- During construction it will be necessary to install a silt fence along the northern and north-eastern site boundaries to prevent any silt running from the site into the stream.
- A silt fence should be appropriately located near the watercourse to help prevent untreated surface water run-off entering the watercourse. Any surface water run-off must be treated to ensure that it is free from suspended solids, oil or any other polluting materials. Silty water should be treated using silt trays/settlement ponds and temporary interceptors and traps.
- Soil stripping should only occur during periods of dry weather.

Re. Construction:

- Specific measures to prevent the release of sediment over baseline conditions to the local stream (and subsequently the Killala Bay/Moy Estuary SAC) during the construction work, which will be implemented as the need arises. These measures include, but are not limited to, the use of silt traps, silt fences, silt curtains, settlement ponds and filter materials. This is particularly important when undertaking any works/upgrading to the surface and foul water drainage networks.
- Provision of exclusion zones and barriers (e.g. silt fences) between earthworks, stockpiles and temporary surfaces to prevent sediment washing into the stream and/or existing drainage systems and hence the downstream receiving water environment.

- Silt traps shall not be constructed immediately adjacent to the stream, i.e. a buffer zone between the trap and the watercourse with natural vegetation must be left intact. Imported materials such as terrain, straw bales, coarse to fine gravel should be used either separately or in-combination as appropriate to remove suspended matter from discharges.
- Monitoring shall be carried out on surface water discharge (if necessary and as specified in any Discharge License associated with the construction phase of the project).
- Provision of temporary construction surface drainage and sediment control measures to be in place before the construction of the pipeline and/or earthworks commence.
- Weather conditions will be taken into account when planning construction activities.
- Prevailing weather and environmental conditions will be taken into account prior to the pouring of cementitious materials for the works adjacent to the Knockanelo Stream and/or surface water drainage features, or drainage features connected to same. Pumped concrete will be monitored to ensure no accidental discharge. Mixer washings and excess concrete will not be discharged to surface water drainage systems.
- Concrete washout areas will be located remote from the stream or any surface water drainage features, where feasible, to avoid accidental discharge to watercourses.
- Any fuels or chemicals (including hydrocarbons or any polluting chemicals) will be stored in a bunded area to prevent any seepage of into the stream, local surface water network or groundwater, and care and attention taken during refuelling and maintenance operations.
- Temporary oil interceptor facilities shall be installed and maintained where site works involve the discharge of drainage water to receiving waters.
- All containment and treatment facilities will be regularly inspected and maintained.
- All mobile fuel bowsters shall carry a spill kit and operatives must have spill response training.
- All fuel containing equipment such as portable generators shall be placed on drip trays. All fuels and chemicals required to be stored on-site will be clearly marked.
- Implementation of response measures to potential pollution incidents.
- Emergency procedures and spillage kits will be available and construction staff will be familiar with emergency procedures in the event of accidental fuel spillages.

- All trucks will have a built-on tarpaulin that will cover excavated material as it is being hauled off-site and wheel wash facilities will be provided at all site egress points.
- Water supplies shall be recycled for use in the wheel wash. All waters shall be drained through appropriate filter material prior to discharge from the construction sites.
- The removal of any made ground material, which may be contaminated, from the construction site and transportation to an appropriate licensed facility shall be carried out in accordance with the Waste Management Act, best practice and guidelines for same.
- A discovery procedure for contaminated material will be prepared and adopted by the appointed contractor prior to excavation works commencing on site. These documents will detail how potentially contaminated material will be dealt with during the excavation phase.
- Implementation of measures to minimise waste and ensure correct handling, storage and disposal of waste (most notably wet concrete, pile arisings and asphalt).

Re. Hydrocarbon Use:

- Any fuels, lubricants and hydraulic fluids stored on site should be kept in secure bunded areas away from the watercourse (recommend a minimum of 100 metres from watercourse). The bunded area will accommodate 110% of the total capacity of the containers within it. Containers will be properly secured to prevent unauthorised access and misuse. An effective spillage procedure should be put in place. Any waste oils or hydraulic fluids should be collected, stored in appropriate containers and disposed of off-site in an appropriate manner.
- The contractor should provide spill kits and they should be stored on-site during construction and used in the event of a fuel or chemical spillage. Such kits should contain absorbent materials (such as absorbent granules, or mats). Appropriate operatives responsible for handling chemicals or oils or for plant refuelling should be trained in the use of this kit.
- Re-fuelling and lubrication of plant should not occur within 50 metres of the river.
- Appropriate drip-trays should be used. Vehicles should never be left unattended during re-fuelling.
- All construction vehicles should be regularly maintained and checked to prevent hydrocarbon leaks.

- All stationary machinery such as pumps should be placed on drip trays to contain any hydrocarbon spillages. These trays will be checked regularly, and rainwater removed to maintain their effectiveness.
- Biodegradable, vegetable-based oils should be used to oil shuttering boards.
- Any hydraulically operated machinery to be used within 50 metres of the river should utilize synthetic biodegradable hydraulic oil such as Castrol Tribol Biotop 1448.

Re. Site Decommissioning:

- Any contaminated materials should be removed from the site and disposed of in the appropriate manner.
- No construction materials, plant or machinery should be left on site following completion of works.

Re. Biosecurity:

- All machinery and in or outgoing traffic to the development site will be jet-washed in an approved manner prior to arrival on site and leaving the site in order to ensure that there is no cross contamination from a biosecurity management perspective with regard to any potential invasive species.

Re. Lighting:

- The lighting used during the operational phase will be directional, which will ensure that there is no light spill outside of the development footprint.
- High-power LEDs warm white (3000K) will be used to reduce blue light component and thereby ensure that there is no lighting disturbance to any potential bird or bat species.
- No hedgerows/treeline will be illuminated as part of the development.
- Any external security lighting will be set on motion-sensors and short (1 minute) timers.

7.4.21 The NIS concludes that risks to the integrity of the qualifying interests and conservation objectives of Natura 2000 sites have been addressed by the inclusion of mitigation measures which reduce and eliminate potential impacts.

7.4.22 Having reviewed the documents, submissions and consultations, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the following European sites alone, or in combination with other plans and projects:

- Killlala Bay/Moy Estuary SAC (Site Code: 000458)
- Killala Bay/Moy Estuary SPA (Site Code: 004036)
- River Moy SAC (Site Code: 002298)

The applicant's NIS was prepared in line with current best practice guidance and provides an assessment of the potential impacts on Killala Bay/Moy Estuary SAC, Killala Bay/Moy Estuary SPA and River Moy SAC.

7.4.23 Appropriate Assessment of implications of the proposed development. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying 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 designed to avoid or reduce any adverse effects are considered and assessed.

7.4.24 The following sites are subject to Appropriate Assessment:

- Killlala Bay/Moy Estuary SAC (Site Code: 000458)
- Killala Bay/Moy Estuary SPA (Site Code: 004036)
- River Moy SAC (Site Code: 002298)

A description of the sites and their Conservation and Qualifying Interests/Special Conservation Interests are set out in Table 7.1 of this report. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website (www.npws.ie).

7.4.25 The main aspects of the proposed development that could adversely affect the conservation objectives of the European sites include;

- Impacts on water quality from the discharge of contaminated surface water run-off during the construction phase of the proposed development to ground water and surface water, affecting aquatic QIs and SCI-supporting habitat.
- The release of Japanese Knotweed to Killala Bay/Moy Estuary SAC.
- Disturbance to mobile species which are QI's of River Moy SAC in the Sruffaunbrogue Stream, should they be present.

7.4.26. Assessment of proposed Mitigation Measures - The NIS outlines a number of mitigation measures. A number of issues arise in respect of the proposed mitigation measures and I consider that the NIS is deficit as a result. Specifically;

- The NIS does not provide clear and specific mitigation measures in respect of the construction of the retaining wall along the western boundary of the development site with the Sruffaunbrogue Stream (as it does for example in relation to the construction of the bridge to cater for the temporary access road).
- The lands to the south and west of the Sruffaunbrogue Stream where the temporary construction traffic access is proposed are indicated on floodinfo.ie within the 10% AEP Fluvial Flood Extent (i.e. High Probability) and the 1% AEP Fluvial Flood Extent (i.e. Medium Probability) respectively. There is therefore potential for contaminated run-off from the temporary construction access route to enter the Sruffaunbrogue Stream with implications for European sites downstream. This issue has not been identified or addressed within the NIS. It is also unclear if flooding could affect the efficacy of mitigation measures which are contained within the NIS, for example the operation of silt traps.
- The absence of a map identifying the location of mitigation measures, for example the location of silt fences.
- Ambiguity in relation to terminology used in respect of mitigation measures, e.g. reference to 'concrete washout areas being located remote from the stream or any surface water drainage features, where feasible, to avoid accidental discharge to watercourses', and elsewhere to 'machinery depots and site offices being located as far away as possible from the watercourse'.
- Reference in the NIS to the provision of silt fences along the northern and north-eastern boundaries of the site where the site does not interface with the Sruffaunbrogue Stream.
- The absence of specific mitigation measures to address the presence and removal/eradication of Japanese Knotweed from the site (which is located along

the banks of the Sruffaunbrogue Stream). The NIS refers to invasive species in the context of a separate report submitted with the planning application which seeks to address this issue however the NIS does not contain any specific mitigation measures in respect of same. Under the heading of 'biosecurity' mitigation measures are proposed to address invasive species from entering or leaving the site on machinery however there are no measures in the NIS specifically aimed at addressing the potential release of Japanese Knotweed into the Sruffaunbrogue Stream. Additionally, the Invasive Species Management Plan submitted with the planning application entails the spreading of herbicide on the development site to eradicate the Japanese Knotweed however the NIS does not contain any mitigation measures to address the release of herbicide to the Sruffaunbrogue Stream. The Invasive Species Management Plan also states that a haul route will be used to convey the Japanese Knotweed when it is removed to a treatment area to the north of the development site, and that the location of this route is to be confirmed in a subsequent Method Statement. Mitigation measures are required in relation to the transport of Japanese Knotweed within the site.

- The absence of information regarding who is responsible for overseeing and monitoring of each mitigation measure.
- The absence of the identification of action(s) which will be taken in the event of the failure of a particular mitigation measure.

For the reasons set out above I am not satisfied that the mitigation measures are sufficient to address potential impacts from pollution and disturbance during construction and operational phases of the proposed development, nor am I satisfied that the potential for deterioration of habitats and species identified within the European Sites is not likely.

In addition to the issues outlined in respect of the proposed mitigation measures contained in the NIS I also note particular concerns in relation to the NIS in general, specifically;

- Otter, a QI of River Moy SAC could be using the Sruffaunbrogue Stream in the vicinity of the development site for feeding and breeding and the results of a field survey carried out by the applicant elude to this (pages 22 and 32 of the NIS refers to the potential for otters to use the site and to 'well-used mammal tracks' being

identified in the vicinity of the stream during the field survey). The extent of the mammal survey carried out by the applicant, and the methodology for same is vague. For example the NIS refers to the field survey having been carried out in April and elsewhere as having been carried out during the Summer. Standard survey methodology for otter are recommended over a number of dates and times and as such the dates and times for such surveys are important. Regarding the potential impact on otter, the Appropriate Assessment Screening report/NIS states that increased human activity and disturbance during construction may impact otter movements but that disturbance is unlikely to be significant as there are sufficient feeding areas for otter in the area. In the absence of a specific otter survey which would definitively confirm the use of the Sruffaunbrogue Stream by otters, and importantly the extent of such use, conclusions in respect of the significance of an impact on otter populations is unqualified. I consider the NIS to be inadequate in relation to the potential for impact on otters on this basis.

- Other mobile species which are QI of River Moy SAC i.e. salmon, sea lamprey, brook lamprey and white-clawed crayfish could be using the Sruffaunbrogue Stream in the vicinity of the development site. The NIS does not contain any information in relation to whether these species use the Sruffaunbrogue Stream and subsequently does not provide any assessment of likely impact on these species or mitigation measures in respect of same. I consider the NIS to be inadequate in relation to the potential for impact on mobile species which are QI of River Moy SAC on this basis.
- Ambiguity in relation to whether the NIS has been prepared by a competent person with an ecology background.
- A number of statements in the NIS are inconsistent in relation to reference to specific European sites and not to other European Sites which are more relevant, for example the statement in relation to cumulative impact (Section 5.1 of the NIS) refers to River Moy SAC but makes no specific reference to sites which are hydrologically connected to the development site, i.e. Killala Bay/Moy Estuary SAC and Killala Bay/Moy Estuary SPA. Similarly, the concluding statement refers to River Moy SAC in respect of the release of pollution and sedimentation from the development site but not to Killala Bay/Moy Estuary SAC and Killala Bay/Moy Estuary SPA which as stated above are hydraulically connected to the development site.

- Section 3.3.3. of the Appropriate Assessment Screening report refers to four European site being brought forward from the screening stage to Stage 2, however Stage 2/NIS examines 3 no. sites, Killala Bay/Moy Estuary SAC, Killala Bay/Moy Estuary SPA and River Moy SAC.

7.4.27.Integrity test. Following the appropriate assessment and the consideration of mitigation measures, I am unable to ascertain with confidence that the project would not adversely affect the integrity of Killala Bay/Moy Estuary SAC, Killala Bay/Moy Estuary SPA and River Moy SAC in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

7.4.28.Appropriate Assessment Conclusion. The proposed development has been considered in light of the assessment requirements of Sections [177U and 177V] of the Planning and Development Act, 2000, as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Killala Bay/Moy Estuary SAC, Killala Bay/Moy Estuary SPA and River Moy SAC. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects could adversely affect the integrity of Killala Bay/Moy Estuary SAC, Killala Bay/Moy Estuary SPA and River Moy SAC) in view of the Conservation Objectives of these sites. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of Killala Bay/Moy Estuary SAC, Killala Bay/Moy Estuary SPA and River Moy SAC.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.

I consider that there remains a reasonable scientific doubt as to the absence of adverse effects on the integrity of on Killala Bay/Moy Estuary SAC, Killala Bay/Moy Estuary SPA and River Moy SAC and as such the Board is precluded from granting

permission for the proposed development. This is a **new issue** and the Board may wish to seek the views of the parties.

8.0 Recommendation

- 8.1. Having regard to the above it is recommended that permission should be refused for the reason set out below.

9.0 Reasons and Considerations

1. On the basis of the information submitted with the planning application/appeal documentation and the Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Killala Bay/Moy Estuary SAC (Site Code: 000458), Killala Bay/Moy Estuary SPA (Site Code: 004036) or River Moy SAC (Site Code: 002298), or any other European site, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission.

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.

Ian Campbell
Planning Inspector

23rd January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-315466-23		
Proposed Development Summary	Construction of 54 no. houses		
Development Address	Killala Road, Ballina, Co. Mayo.		
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	X
		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			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)
No		N/A	
Yes		Class 10, (b), (i) (threshold is 500 dwelling units)	Proposed development substantially below threshold
			Conclusion
			No EIAR or Preliminary Examination required
			Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: Ian Campbell

Date: 23rd January 2024

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-315466-23	
Proposed Development Summary	Construction of 54 no. houses.	
Development Address	Killala Road, Ballina, Co. Mayo.	
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.		
	Examination	Yes/No/ Uncertain
<ul style="list-style-type: none"> • Nature of the Development • Is the nature of the proposed development exceptional in the context of the existing environment? • Will the development result in the production of any significant waste, emissions or pollutants? 	<p>The proposed development comprises a residential development of 54 no. houses and is located within an urban area immediately adjoining an existing residential development.</p> <p>The proposed development will not give rise to the production of significant waste, emissions or pollutants.</p>	<ul style="list-style-type: none"> • No • No
<ul style="list-style-type: none"> • Size of the Development • Is the size of the proposed development exceptional in the context of the existing environment? • Are there significant cumulative considerations having regard to other existing and/or permitted projects? 	<p>The size of the proposed development would not be described as exceptional in the context of the existing environment.</p> <p>There are no significant developments within the vicinity of the site which would result in significant cumulative effects/considerations.</p>	<ul style="list-style-type: none"> • No • No

<ul style="list-style-type: none"> • 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? • Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area? 	<p>Having regard to the nature and scale of the proposed development it is considered that the issues arising from the proximity/connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment) as there is no likelihood of other significant effects on the environment.</p>	<ul style="list-style-type: none"> • No • No
<ul style="list-style-type: none"> • Conclusion 		
<ul style="list-style-type: none"> • There is no real likelihood of significant effects on the environment. • EIA not required. 	<ul style="list-style-type: none"> • There is significant and realistic doubt regarding the likelihood of significant effects on the environment. • Schedule 7A Information required to enable a Screening Determination to be carried out. 	<ul style="list-style-type: none"> • There is a real likelihood of significant effects on the environment. • EIAR required.

Inspector: Ian Campbell

Date: 23rd January 2024

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

(only where Schedule 7A information or EIAR required)